A BROADCASTING POLICY FOR CANADA

A REPORT OF THE
STANDING COMMITTEE ON COMMUNICATIONS AND CULTURE

JOHN GORMLEY, M.P.
CHAIRMAN

JUNE 1988

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INCLUDING:

The Fifteenth Report to the House: A BROADCASTING POLICY FOR CANADA

WITNESSES:

(See back cover)

Second Session of the Thirty-third Parliament, 1986-87-88

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Conformément à son ordre de renvoi en date du 29 janvier 1987: Étude du rapport du Groupe de travail sur la politique de la radiodiffusion

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TÉMOINS:

(Voir à l'endos)

Deuxième session de la trente-troisième législature, 1986-1987-1988

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The Standing Committee on Communications and Culture has the honour to present its

FIFTEENTH REPORT

Pursuant to its Order of Reference dated Thursday, January 29, 1987, your Committee has considered Canadian broadcasting policy issues including the "Report of the Task Force on Broadcasting Policy" and reports its findings and recommendations.

ACKNOWLEDGEMENT

An exhaustive review of a topic as complex as a broadcasting policy for Canada requires the cooperation of many individuals and organizations. All of those who responsed to the Committee's invitation for submissions made an invaluable contribution to the Committee's work. We hope that our Report's findings and recommendations will address many of the issues they raised.

A task such as this could not have been undertaken without a devoted staff. The Committee wishes to acknowledge its Director of Research, Paul Audley, for his perseverance and commitment to excellence. The Committee was fortunate to retain the services of many experts in the field; all made a significant contribution. Certain, however, warrant special consideration: Tim Creery, who lent his knowledge and experience acquired in his many years in journalism; Eunice Thorne, on whom fell the burden of revising, on very stringent deadlines, material written by the many different authors, and René Lemieux who ensured that French language broadcasting aspects were fully addressed. The Committee further benefitted from the expertise of James Robertson, Millie Morton and Antony Jackson from the Library of Parliament who performed the many research tasks required to complete this Report.

During the course of its review, the Committee had the support of the logistical and administrative skills of the staff from the Clerk's office; we wish to thank Normand Radford, Clerk of the Committee, Camille Blais, Administrative Assistant and Karen Titley, secretary. Their careful attention to detail allowed us to forestall many problems.

Finally, but not least, the Committee wishes to thank Johanne Lahaie, Francine Lamarre and their staff from Centralized Support and Publication Services for their many hours of arduous work, Christiane Delon and Cécile Fortier from the Translation Bureau, and all House of Commons staff who provided assistance to the Committee.

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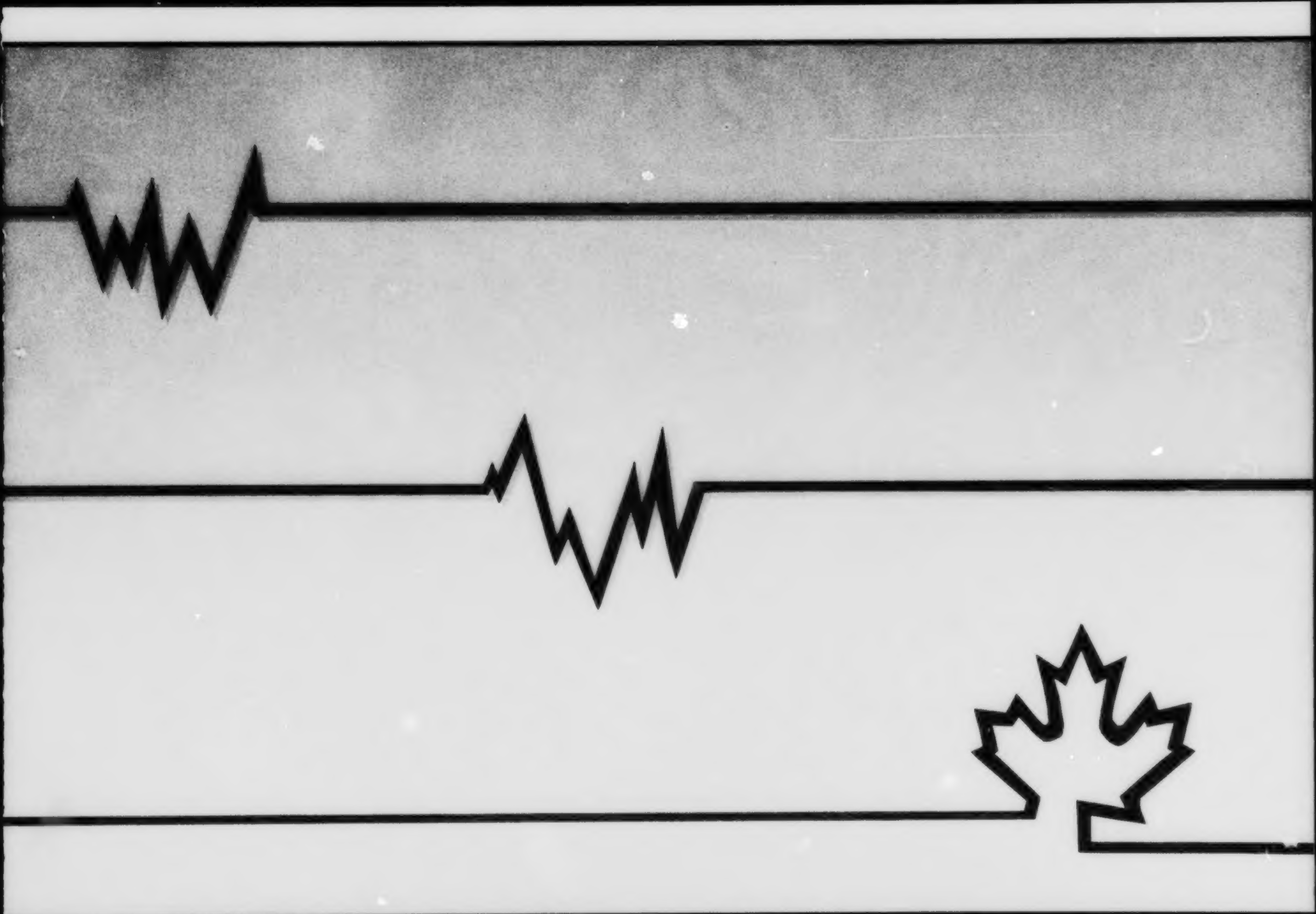


A BROADCASTING POLICY FOR CANADA

FOREWORD

This Report presents the findings and recommendations of the Committee on a comprehensive range of broadcasting policy issues, including both public and private radio and television, and encompassing program production, distribution and exhibition. It completes the wide-ranging review of broadcasting the Committee has been conducting for more than a year in relation to the *Report* of the government's Task Force on Broadcasting Policy. This report must be seen, however, in the context of the Committee's earlier reports on broadcasting matters and the dialogue which developed between the Committee and the government, represented by the Minister of Communications. For this reason, we offer the following Foreword to the combined reports of the Committee. All the recommendations from the Committee's other reports on broadcasting matters are to be found in Appendices III, VI and V to this Report.

Earlier Reports

The Committee's current work on broadcasting began when the Annual Report of the CBC was referred to it in October, 1986, together with a report of the Auditor General that was highly critical of the Corporation's financial accounting. These became the subject of the Committee's Fourth Report. Although the *Report* of the Task Force on Broadcasting Policy had not at that time been referred to the Committee, it had been published. The *Report* was of assistance to the Committee in considering the accountability and organization of the CBC. The Fourth Report, submitted on February 12, 1987, should therefore be considered as part of our general review of broadcasting undertaken in relation to the Task Force *Report*.

The Fourth Report concluded with two recommendations. The first proposed methods for tightening the conduct and supervision of financial administration of the CBC. The second proposed a division of authority at the head of the Corporation between a chairman appointed by the Governor-in-Council, who would be responsible primarily for the Corporation's policies, and a president appointed by the Board of Directors, who would be responsible for implementation of policy. Both recommendations would require amendments to the *Broadcasting Act*, and the Committee recommended that these amendments proceed quickly. They were accepted in the government response to the Committee in June 1987, but have not yet been acted upon.

In the meantime, the Task Force *Report* had been referred to the Committee under a House of Commons Order of January 29, 1987. The Order called for the Committee's findings and recommendations on all matters relevant to the development of broadcasting legislation to be reported to the House by April 15 — later extended to May 6 — 1987 (see Appendix I). The Committee therefore decided to pursue its work in two phases, the first devoted to matters concerning new broadcasting legislation only, the second dealing with the whole realm of broadcasting policy covered by the Task Force.

In the first phase, witnesses with an interest in broadcasting from all sectors and all parts of the country were invited to comment on the views and recommendations of the *Report* relating to broadcasting legislation and on any other matters they felt should be covered by a new broadcasting act. Before proceeding to report on these matters, however, the Committee issued an interim report — its Fifth Report — on several pressing issues including: specialty satellite-to-cable channels (since the deadline for applications to the CRTC was approaching quickly) and the Government's relationship to the CRTC in connection with powers of direction and review.

This Fifth Report, submitted on April 18, 1987, contained 21 recommendations. Those dealing with specialty services underlined, among other things, the desirability of reserving a satellite-to-cable channel for a non-commercial service that would be a national showcase for productions from all regions of Canada, and the importance of stimulating the development of Canadian specialty television services and assuring an adequate place on satellite-to-cable channels for Canadian content.

The Committee further recommended that the Governor-in-Council should be able to issue directions to the CRTC on broad policy matters, subject to review by an appropriate parliamentary committee. It also recommended that the Cabinet should have a limited power of review of CRTC decisions. Finally, the Fifth Report recommended that the *Radio Act* be amended to provide for recourse against unauthorized reception of signals not intended primarily for direct reception by the general public.

In its Sixth Report, submitted to the House of Commons on May 6, 1987, the Committee reviewed all the legislative recommendations of the

Task Force *Report*. Generally speaking, the Committee shared the underlying concerns of the Task Force and agreed with many of its extensive legislative recommendations, although it did alter some and drop others. The Committee's general position was a reaffirmation of the main principles and goals upon which the Canadian broadcasting system has been based since the first *Broadcasting Act* was adopted more than half a century ago. We believe this is the kind of broadcasting system Canadians want in spite of — or perhaps because of — the major cultural, social, economic and technological developments of the intervening years. The system has served Canada's development needs, but to preserve it in changed circumstances will of course itself demand extensive changes.

Preparing this Report

Since the principles and goals of broadcasting legislation must necessarily provide the basis for broadcasting policy, a significant beginning on the work of this report was made in the Sixth Report. While we will summarize the fundamentals of broadcasting, as we see them, in the Introduction to this report, we stress that the full Sixth Report, and our other two reports on broadcasting matters, must be considered as part of the Committee's comprehensive findings and recommendations on broadcasting.

In the second phase of its work, the Committee reviewed all the policy options put forward by the Task Force on Broadcasting Policy, the Minister of Communications, other witnesses, and the CRTC. The Committee also heard testimony on policy issues raised in the government's response to the Committee's reports.

However, in keeping with its Order of Reference from the House of Commons, the Committee continued to use the *Report* of the Task Force as the point of departure in all its consultations. An essential part of our responsibility has been to solicit comment across Canada on the findings and recommendations of the Task Force. As the text of this report will indicate, based on our consultations, we have accepted many of the proposals put forward in the Task Force *Report*, rejected others and, on a number of issues, developed our own recommendations.

To ensure relatively easy access to the Committee, hearings were held in several centres in each region. The Committee also heard a number of national organizations in Ottawa. Public hearings were held in 18 centres across Canada. The Committee received 261 submissions, with considerable overlap between 170 written briefs and 234 oral presentations; that is, many witnesses submitted briefs and also appeared before the Committee. A number of witnesses also responded in writing to questions posed by the Committee which could not be fully addressed in our public hearings. All major groups concerned with broadcasting participated in both the first and second phases of our review.

In the second phase, witnesses were able to give their views on all aspects of broadcasting policy bearing in mind primarily the recommendations of the Task Force, but with an awareness of this Committee's earlier findings and recommendations, as well as the comments of other witnesses from inside and outside government and the regulatory agency. In preparing the present report, the Committee has tested the options advanced by each source against the others, and against experts from outside government.

The Committee has thus played the role of convenor and animator of a comprehensive national dialogue on broadcasting policy. In fulfilling this role, the Committee felt it was not only following in the tradition of earlier parliamentary committees that have participated at each major juncture in the development of broadcasting policy and legislation, but was also breaking new ground. This was because the present House of Commons has considerably enhanced the stature and work of committees in the legislative process and we sought to exercise these broader responsibilities to the fullest. Members of the Committee wish to thank all the participants in our hearings who made such a vital contribution to this process, which we believe is the best way of reaching a broadcasting policy based on national consensus. We also thank the seven members of the Task Force on Broadcasting Policy for their ambitious and thorough review of broadcasting policy — the first comprehensive one that had been carried out in twenty years.

Dialogue with the Government

The Committee divided its work into two phases and the submission of its Fifth and Sixth Reports was designed to accommodate early action on broadcasting matters, such as power of direction, satellite-to-cable specialty TV, and the introduction of a new broadcasting act.

However, the government decided to delay any substantial action until it had a full grasp of the overall policy picture, an approach that differed from its earlier plans and from the expectations of the Committee. When the Honourable Flora MacDonald responded to the Committee's Fifth and Sixth Reports in August, 1987, she said the government was looking forward to receiving the Committee's "final, comprehensive report on broadcasting policy" to help it "move forward on the broadcasting agenda". In the meantime, she said, the CRTC would have the advantage of the Committee's views in reaching its licensing and policy decisions on specialty services. While the Government agreed in principle with both policy direction to the CRTC and a limited power to review certain CRTC decisions, these questions have been held in abeyance pending decisions on "the future role and structure of the CRTC".

In debate in the House of Commons on September 9, 1987, concerning the adequacy of the government's response to the Committee's reports, the Committee indicated its unanimous view that the Minister's response was not comprehensive, and thus not in keeping with the spirit or the letter of the reforms of Parliament. For her part, the Minister said that her expectations of being able to proceed with broadcasting legislation had indeed changed since the time the Committee had taken up these issues.

The government's August response had stated that, although many of the legislative recommendations of the Committee, including those covering such matters as "Assumptions" and "Objectives for the Canadian Broadcasting System", could be endorsed on their merits and did not need further examination, the government preferred to defer all of its response until receipt of the Committee's report on broadcasting policy. The Minister urged careful consideration of several matters, including: the future use of new technologies or approaches to the production and delivery of programming; the possibility of an approach to obtaining more Canadian programming by the private sector that would involve more incentive, less regulation; the possibility of making CBC a "more focused instrument" of public policy, possibly by reducing its program-delivery infrastructure; and the examination of ways of ensuring that the sum total of public funding committed to program production and broadcasting through the CBC, the National Film Board, Telefilm Canada and other policy instruments is used as efficiently and productively as possible to improve Canadian content on Canadian television.

These matters were taken up in the second phase of the Committee's work, which included an appearance by the Minister at a Committee hearing and useful written answers to a series of questions submitted to her by the

Committee. The individual issues which were raised will be addressed in the appropriate sections of this report. They do not necessarily involve departures from the legislative framework already proposed by the Committee, but we shall examine this question where appropriate.

The Minister also raised the issue of whether the legislative definitions proposed by the Committee in its Sixth Report dealt adequately with the rapidly evolving technologies being used to deliver programming services. The Minister's concerns about the Committee's treatment of technology in relation to legislation can be found in the government's August response, in her testimony before the Committee at a hearing on September 22, 1987, and — comprehensively and most pointedly — in written replies to questions which were filed with the Committee in November, 1987. In explaining her concern the Minister noted that "We underestimated the future impact of cable and satellite-to-cable technology in drawing up the last Act and we can't afford to do that again, given the rapid developmental pace of new technology". [Response, p. 18.]

In addition to raising the concern that the proposals we made might not adequately encompass new technologies, the Minister also questioned whether the Committee's proposals might encompass too much. Her particular concern was the Committee's proposal to use a broad definition of "programming" in the act. [The relevant legislative recommendations of the Committee are Recommendations 18 and 53, which appear in Appendix VI to this Report.]

Building on the approach adopted by the Task Force, the Committee sought to define broadcasting broadly enough to include cable, satellite-to-cable, and direct-to-home satellite delivery of programming in the same way that over-the-air delivery of programming is captured today. In the proposed approach to defining "programming" and "non-programming" services, the Committee's purpose is to clarify the jurisdiction of the CRTC in an increasingly blurred area, while retaining the term "non-programming" to apply to services such as security and alarm systems, two-way interactive services, and other telecommunications services. We note that the existing definition is continuing to create difficulties, as is evident in the recent announcement by the CRTC concerning the Canadian Home Shopping Network. Under the Committee's proposed definitions, broadcasting would remain a service intended for reception by the general public rather than by particular persons, and programming would remain distinct from "non-programming services", with the latter not subject to many of the stipulations of the legislation.

While the Committee has carefully considered the Minister's concerns, we believe that in respect of both broadcasting and programming its definitions were not so broad as to capture more services, or be more intrusive, than was appropriate and necessary to serve the public interest in an era of technological innovation.

One of the Committee's key recommendations in this regard was Recommendation 8, which stated:

The Committee endorses the Task Force recommendations:

(a) that the Act should cover all undertakings involved in broadcasting in the widest sense, this is, those that decide what programs to carry as well as those that are involved in program dissemination to the public, and thus in determining program accessibility to Canadians; and

(b) that the Act should broaden the definition of broadcasting and related concepts to cover all types of program reception and distribution whether by Hertzian waves or through any other technology.

This recommendation was also endorsed by the CRTC in its comments to the Committee on its fifth and sixth reports, submitted on November 18, 1987. The Commission said it believed the recommendation would "ensure that all participants in the broadcasting system will be treated equitably and will not be subjected to unfair competition". The CRTC also endorsed the Committee's specific recommendations relating to the definition of "broadcasting" and the concept of an "undertaking". [Recommendations 8 through 12, Appendix VI.]

Most witnesses who have come before us, and the legal counsel we have consulted, believe that we have neither cast too wide a net, nor made proposals that will not accomodate technological evolution, insofar as such developments can be anticipated. Representatives of the Canadian Cable Television Association (CCTA) noted, for example, that they are not now regulated on the basis of their use of coaxial cable and in fact make use not only of coaxial cable but also of microwave, satellites and, to some extent, fibre-optic cable. The CCTA went on to state that:

> The technological question is a clear and important one.... Yet with all its importance, it will clearly be a mistake in the context of a revised broadcasting policy to overestimate the impact of technological change. We are concerned about the apparent obsession with technology within the Department of Communications. The focus has to be on programming and its distribution and not on a particular delivery technology. [*Minutes*, 69:77.]

The Committee believes that the Minister is quite correct to have been cautious about ensuring that a new broadcasting act includes, but does not exceed, what needs to be regulated. Nevertheless, on the basis of extensive input from the Committee's witnesses, we have seen no reason to withdraw or amend any of the recommendations we have made for new broadcasting legislation.

We note, however, that our recommendations are predicated on federal jurisdiction over the transmission and reception of radiocommunication, which, historically, has provided the basis for broadcasting legislation. At present we believe that an effective new act can be drafted on this same basis. However, we recognize that in the future it may become both feasible and desirable, if not essential, to proceed on different or additional jurisdictional bases whether that is federal jurisdiction over inter-provincial telecommunications, the peace, order and good government power, authority over international transactions, or any other power. If such an approach is to be adopted, there should be adequate provision for further public input and the result must continue to be a strong federal broadcasting law. We note that the Committee did not receive any research or policy studies from the Department of Communications or from other sources which examined alternative jurisdictional authority as a basis for federal broadcasting law.

The Committee supports the following statement by the Minister of Communications in her response to our questions.

> We have been driven for over 20 years by technology — by the art of what is technically possible. What we must try to ensure in our legislative framework is that programming goals play an equally large role in shaping the broadcast system and that the appropriate technology is harnessed, or at least anticipated and controlled, as an adjunct to or facilitation of those programming objectives. [Response by the Honourable Flora MacDonald, Minister of Communications to the questions raised by the Standing Committee on Communications and Culture further to the Minister's appearance before the Committee on September 22, 1987, November 1987, p. 50.]

It is in this spirit that the Committee prepared its legislative proposals, and developed the policy analysis and recommendations in this Report.

The Committee stresses that this Report and all its other reports on broadcasting have been unanimous in nearly all their recommendations, with reservations of specific Members noted in the relevant instances. Members consider it important to put aside partisan considerations and try to envision a broadcasting system that in its essentials would command the support of the great majority of Canadians.

1.0 THE OBJECTIVES OF BROADCASTING POLICY

1.1 Introduction

The whole of this Report on broadcasting policy is predicated on the policy objectives the Committee set out in its Sixth Report of May 6, 1987. In that report we indicated what we believe the Canadian broadcasting system should be expected to deliver to Canadians. Here, our purpose is to examine how the various objectives we wish to see stated in the law can best be implemented. In effect, the earlier report dealt with what needs to be done; this Report deals with how to do it.

Because of its scope and impact, broadcasting policy is Canada's premier cultural policy. The ability of Canadians to be themselves and see themselves in this age of popular culture delivered by mass media is more affected by broadcasting policy than any other. The cultural resources on which the Canadian broadcasting system can draw are reinforced by a wide range of policies supporting the creative and communicative arts — from writing, painting and composing to the performing arts, film, sound recording, and the print media. By embracing contributions from other cultural sectors and interacting with them, broadcasting has stimulated their development.

The importance of broadcasting policy will increase in the years ahead, for broadcasting is a rapidly expanding universe. In number of outlets and quality of sound and display, the technological outlook is for more and better. The challenge for the future is to ensure that in a more fragmented market, there is an adequate, varied range of properly financed Canadian programming available.

Canada is one of the world's most cabled countries. Cable and satellite transmission are constantly increasing the number of channels that can be delivered to the home. Further improvements in distribution capability may become technically feasible with the greater use of transmission by optical fibre. The introduction of stereo television is improving the quality of television sound. In the coming decade, the introduction of widescreen, high-definition television may immensely improve television's visual quality as well.

Technological innovations in production, transmission and reception also create the potential for two-way interactive services that involve giving the viewer greater control over what is received. Gradually, broadcasting may become more of a medium for print and graphics, though much remains to be done to improve the display quality and the convenience of the receiver for this type of use.

Advances in the reach and quality of radio are more limited but will not be without impact. Stereo sound on AM radio may help restore the competitive position of AM services. Satellite transmission has greatly improved opportunities for radio networking and will accomodate direct-to-home (or direct-to-vehicle) radio broadcasting over huge areas.

The implications for cultural policy of the improvements in both transmission capability and sound and display quality are tremendous, not only for popular entertainment and information programs but for more specialized programming as well. For example, stereo sound and high-definition, widescreen televison display transform the viewing experience of everything from sports events to ballet, rock concerts to symphony performances, live theatre to opera. The capacity of television to display and explain the contents of museums and art galleries will be greatly enhanced, as will its general capacity to serve as an educational medium, although such use of television will not automatically occur.

Clearly, we are entering an exciting period of new challenges and opportunities in broadcasting. Today's decisions and those that will be made over the next decade, will determine whether the current transition period leads to a stronger Canadian presence in broadcasting in both the French and English language components of the industry, or a gradually reduced position for Canadian programming. Similarly, these decisions will determine whether minority programming needs will be better met in the future.

1.2 Freedom and Responsibility

As we noted in the Foreword, freedom of expression is affirmed in section 3 of the present *Broadcasting Act* and has been entrenched in the Constitution's *Charter of Rights and Freedoms*, section 2, which states that everyone in Canada has "freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication". The association in the Charter of the newer "other media of communication" with the time-honoured principle of "freedom of the press" makes it clear that freedom of broadcasting is a constitutional right enjoyed by Canadians.

At the same time, Canada has a half-century tradition of assuring responsibility in broadcasting. That is, broadcasters are deemed to have public responsibilities based on their privileged use of public property — the airwaves. Cable companies are deemed to have responsibilities based on their reception of over-the-air broadcasting and their monopoly of cable delivery in the areas for which they are licensed.

Today, as at the the beginning, the first essential of freedom of broadcasting is to give Canadians the opportunity to exercise it. Freedom of broadcasting is like any other freedom, it does not entitle the person who exercises it to infringe on the freedom of others. At the international level, Canada has always chosen to maintain an open cultural frontier so that Canadians have access to the expression of other nations, but must equally ensure that its own people can exercise freedom of expression and have access to it. Without means of expression, the people's voice is stilled, its identity lost. Without a firm policy to assure genuine freedom of broadcasting, we risk returning to the 1920s when, except for local programs, Canadian radio stations were simply a conduit for imported American programming.

By the same token, freedom of broadcasting requires that within Canada we do not allow our own majorities to drown out minorities but do what we can to open opportunities for expression to the constituent parts of the nation, whether linguistic communities, ethnic communities, or regional communities.

The basic goals of freedom and responsibility in Canadian broadcasting were expressed and elaborated in some detail in the Committee's Sixth Report, dealing with broadcasting legislation. We discuss the essential elements here only to underline their importance as the foundation for the analysis and recommendations which appear in this Report.

Owing to Canada's vulnerability to inundation by programming from the United States, the first objective of freedom of broadcasting in Canada is to maintain Canadian control of a broadcasting system that is regulated and supervised by a single agency. The second goal is to make this system responsive to the broadcasting needs of Canadians without intruding on their rights. This is the delicate balancing act of freedom and responsibility: to uphold freedom of broadcasting without resorting to means that defeat that end.

The broad goal of the system is expressed in the phrase "to safeguard, enrich and strengthen the cultural, political, social and economic fabric of Canada". This is supplemented by the stipulation that programming provided by each broadcaster and network operator "should be predominantly Canadian, and each broadcaster and network operator should use predominantly Canadian creative and other resources".

The Committee noted in its Sixth Report that it would make no sense in a new act to incorporate a "predominantly Canadian" requirement for individual Canadian broadcasting and network operators while leaving cable system operators free to import foreign programming without restraint and without a corresponding obligation to contribute to Canadian programming. In order for a new law to reflect current and future realities, the essential role of cable companies and other distributors would be defined as that of "distributing Canadian radio and television services in English and French, both public and private, with first priority given to public sector Canadian services followed by private Canadian services". With the exception of the "three-plus-one" services (CBS, NBC, ABC and PBS) the new act should make provision for coverage of foreign radio and television services only when the programming they provide is complementary to that available from Canadian broadcasters and network operators. The essential point here is that the new law must provide a basis for maintaining a reasonable balance of foreign and Canadian programming on cable and other distribution undertakings, just as the 1968 *Act* did for individual Canadian broadcasters.

To meet broad Canadian cultural goals, the system has, since its inception, included a public element, the Canadian Broadcasting Corporation, joined in more recent years by a number of provincial educational broadcasting authorities. The private sector, by far the largest provider of programming in radio, and dominant for many years in television as well, has been subject to regulation and terms of licence designed to ensure that at least half of its programming is Canadian. In the proposed legislation, the community sector of radio and television broadcasting would have separate recognition as a component of the general system.

The system works partly through the strong Canadian-content mandate given to the Canadian Broadcasting Corporation, and partly through an implied cultural contract between the private broadcasters and the Canadian people. The broadcasters supply a certain level of Canadian programming in return for receiving the privilege of a broadcasting licence. In recent years, the Canadian Radio-television and Telecommunications Commission has sought to emphasize this contractual relationship by formulating "conditions of licence" appropriate to each broadcaster, rather than relying primarily or exclusively on blanket regulations imposed upon all. This development has met with the approval of both the Task Force and this Committee. At the same time, the Committee has agreed with the Task Force that incentives are needed to help Canadian broadcasters fulfill their side of the bargain, since they are able to buy American programming for a small fraction of the cost of producing comparable Canadian programs.

The evidence submitted at our hearings showed that the fundamental goals of the system are well accepted by its major participants. For example, Robert Bonneau, chairman of the television board of the Canadian Association of Broadcasters, put it this way:

> The Canadian broadcasting system must be preserved to respond to Canadian interests, priorities, and opportunities. There must be no compromising on that assertion. Canadians must have choice, but, moreover, the right to choose Canadian. [*Minutes*, 69:7.]

In order to realize the broad goals of the system, Canadian broadcasting policy includes explicit legislative objectives. Some of them link the Canadian-content principle with particular fairness objectives. Others stand on their own. In the next section we summarize these objectives, since they are set out at length in the Sixth Report.

1.3 Objectives for the Canadian Broadcasting System

The Committee has recommended that broadcasting objectives be spelled out in legislation more extensively than recommended by the Task Force. We believe it is important that the new act give broadcasters a clear understanding of what Canadians expect from the system. The CRTC itself has endorsed all of the recommendations this Committee has made for a new statement of objectives in the act. [Recommendations 20 to 32 of the Sixth Report.]

The central issue which the new broadcasting act must address in its objectives section is what programming the system ought to make available to Canadians. On this issue, the new legislation should state that the whole system should offer "a range of programming that is varied and comprehensive, providing a balance of information, enlightenment and entertainment for people of different ages, interests and tastes". We note the obvious implication that the regulatory agency for broadcasting should ensure that Canadians are offered a broad range of foreign programming as well as Canadian programs.

Nevertheless, because there has always been a tendency for Canada to be flooded with foreign programming there has been a particular need to state clearly the Canadian programming goals. In broad terms the act should state that the system should encourage the development of Canadian expression, "providing a wide range of programming that reflects Canadian attitudes, opinions, ideas, values and artistic creativity, displaying Canadian talent in entertainment programming, and offering information and analysis concerning Canada and other countries from a Canadian point of view".

The act would require that the system stimulate Canadian consciousness and serve the special needs of each region and both official language groups, providing exchanges between both regions and language communities. The system should "acquaint all Canadians with the traditions, values, practices and aspirations of each region of Canada".

The Committee also believes it important that broadcasting in Canada should respect the equality provisions in section 15 of the *Canadian Charter of Rights and Freedoms*. Thus the system should respect the needs and interests of both sexes. In another recommendation, the Committee has incorporated fair treatment of different groups in programming objectives, urging that "the programming carried by the system should provide a balanced representation of Canadian society, reflecting its multicultural and bilingual realities, its aboriginal peoples and the composition of its population with respect to sex, age, race, national or ethnic origin, colour, religion, and mental or physical handicaps".

Since these objectives apply to the whole system, the CRTC has flexibility in overseeing how they are realized. What they would provide for the Commission is a clear statement of the programming goals and objectives which the Canadian broadcasting system as a whole ought to achieve. Generally speaking, the contribution which individual licensees and categories of licensees ought to make would be determined by the Commission.

There is a need, however, for Parliament to define clearly in legislation the role of the CBC as the national public broadcasting service. The Committee proposes that the new act require that "the CBC cover the whole range of Canadian programming...providing a balance of Canadian programming of information, enlightenment and entertainment, ...while offering Canadians the best of foreign radio and television programming". This recommendation reflects a significant change from the existing goal that the CBC provide a balanced schedule of both foreign and Canadian programming. In keeping with this goal of a more Canadian CBC, the Committee would see the Corporation providing a service in English and French, in all geographic regions and contributing actively to the exchange of programming among Canadians in all regions. The act would also recognize the responsibility of the CBC to offer service in representative aboriginal languages, a provision not in the existing law.

Often freedom of the press has been described in terms of the people's right to a free flow of information and opinion from as wide a variety of sources as possible. A similar concern in broadcasting is reflected in the Committee's recommendation that "the programming of each broadcaster, network operator, and community channel operator should provide a reasonable and balanced opportunity for the expression of differing views on matters of public concern".

Freedom of expression means little in any communications system without freedom to receive. Thus the Committee recommends that the new act should reaffirm that all Canadians are entitled to Canadian broadcasting services in both French and English. It adds that this right should be implemented if necessary "by means of concerted action by the public sector".

Since the right to receive television broadcasting means little to the hearing-impaired unless special provision is made for them, the Committee has set the objective of ensuring that at least half of national television programming on the networks be available with closed captioning or other assistance to the hearing-impaired within five years of the adoption of a new act.

A new objective, adopted by the Task Force and endorsed by the Committee, would entitle aboriginal peoples to "broadcasting services in representative native languages, where numbers warrant and as public funds become available".

The objectives and principles adopted for the Canadian broadcasting system by the Committee are based on the long years of experience with the present Act and the public consultations carried out by both the Task Force and the Committee. We believe they come close to matching the expectations of Canadians; opinion surveys offer evidence that they do.

1.4 Canadian Views on the Broadcasting System

Canadians have been polled frequently on their attitudes toward various aspects of the broadcasting system, such as the balance between Canadian and American programming, the number of channels available, and the importance of broadcast media relative to other media.

In radio broadcasting, for example, a 1985 Gallup survey found that over half of radio listeners (54%) reported they were very satisfied with the radio programming available to them, while a further third (34%) were somewhat satisfied. [The Canadian Gallup Poll Ltd., *Home Entertainment. A Study of Canadians' Behaviour and Attitudes. A Syndicated Study*. May 1985.] A 1983 Goldfarb study found that 84 percent of Canadians who were familiar with CBC Radio were satisfied with the job CBC was doing. [Goldfarb Consultants, *The Culture of Canada. A Research Report for the Department of Communications*, July 1983.]

The same 1983 Goldfarb survey found that just over a third (37%) of Canadians thought there was too little radio programming available that featured Canadian performers, while three percent thought there was too much. By comparison, 45 percent thought the amount available was about what it should be. In a 1987 Environics survey, 47 percent of respondents expressed the view that American recording artists had too great an influence on the Canadian way of life, while almost the same number, 45 percent, disagreed. [Environics Research Group Ltd. and Intermet Incorporated, *The Media Study*, a syndicated multi-client study, March, 1987.] In the same survey 37 percent of respondents expressed the view that there are not enough radio programs (including music and information programs) that reflect a Canadian point of view, while 50 percent did not agree. Although these findings are not conclusive, they suggest that there is public support for at least the Canadian content requirements in radio now imposed by the CRTC.

Most Canadians seem satisfied with the number of radio stations they can receive. The Environics survey found that only 18 percent of Canadians surveyed felt strongly that they would like to have another local radio station, while a further 19 percent agreed somewhat. The remaining 57 percent disagreed. To a considerable degree, however, the response varied, depending on the number of radio stations people could receive already. In Montreal, for example, 69 percent of respondents did not think there should be another station, and only 15 percent agreed strongly that there should be.

By contrast, in the Atlantic provinces 40 percent would not like to see another local radio station in their community whereas 54 percent would like another station. Twenty-five percent of those polled in the Atlantic provinces expressed a strong interest in having another station.

In television broadcasting, a number of studies have shown that Canadians believe they should be able to receive American programming, but also wish to receive a strong showing of Canadian programming. A 1985 Gallup survey found that just under two-thirds of Canadians (65%) thought that our culture was being influenced too much by American television. This view was a little more likely to be expressed by English Canadians than French (67% vs 60%), by younger Canadians than older (70 percent of the 18-to-29 group compared with 58 percent of those over 50), and by Canadians with more formal education (71 percent of those with university education, compared with 54 percent of those with public school education).

This does not mean that Canadians do not like American programs. Not only do they watch American programs more than half the time, a 1980 Gallup survey indicated that two out of three Canadians (68%) thought the Americans made the best TV programs. Just 14 percent thought Canadians made the best programs, and 10 percent thought the British did. This does not necessarily mean that most Canadians think Canadian programs are of poor quality: in fact, in the 1985 Gallup survey referred to above, seven out of 10 Canadians say that Canadian programs are of fairly good or very good quality, while 24 percent say they are fairly poor (18%) or very poor (six percent).

Survey research has confirmed that Canadians are generally supportive of the CRTC quotas for minimum Canadian content. A 1980 Gallup survey found that two-thirds of Canadians (67%) supported the requirement that Canadian television stations have at least 50 percent Canadian programming during the prime evening hours, while 24 percent disagreed. The 1985 Gallup survey reinforced this view, with 70 percent expressing approval of the existing Canadian content quota in prime time. A significant minority (37%) expressed the opinion that the amount of Canadian programming should be increased, while only 10 percent thought it should be decreased. Almost four out of five said there were either enough American programs available (63 percent of respondents) or too many (15%). Just under one in five (19%) thought there were too few. The same survey indicated, however, that over four in 10 Canadians (42%) felt there were too few foreign programs available from countries other than the United States, while only six percent thought there were too many.

In the 1983 Goldfarb survey, almost half the respondents (48%) said there was too little TV programming featuring Canadian performers. This attitude toward television is reflected as well in the conclusion reached by Environics Research, based on their 1987 Media Study: "Television is the only medium which the majority of users identify as "too American' in its influence and as having too little content which "reflects a Canadian point of view' ".

The 1987 Environics study also found that 50 percent of Canadians felt that we should be doing more to develop a separate cultural identity from the United States while only five percent thought we should do less. A further one third (37%) would maintain current efforts to strengthen Canada's cultural identity. Such attitudes were consistent across all demographic groups and regions.

The Environics survey also asked respondents to what degree particular components of the media should take a leading role in building a stronger Canadian identity. Most Canadians (87%) thought the CBC should be very (56%) or somewhat (31%) responsible for building a strong Canadian identity. Eighty percent of those polled expressed the view that private radio and television stations should play a role in building a strong Canadian identity. Even in the case of cable television companies, over three out of four Canadians (76%) believed they were very or somewhat responsible for providing leadership in building a stronger Canadian identity.

Surveys have shown Canadians are generally satisfied with the number of television channels they receive. The 1985 Gallup survey referred to above found that three out of four Canadians said that they received either an adequate number or too many television channels. The 1983 Goldfarb study produced a similar finding, with 79 percent saying they received either about the right number of television channels or too many.

With fewer channels available, however, Canadians whose mother tongue is French are far more likely than English Canadians to feel they have too few channels: two out of five say they receive too few (1985 Gallup survey). Dissatisfaction also increases in English-speaking areas with a small number of channels, with half of the respondents (49%) in the 1985 Gallup survey who could receive only one to three channels saying they had too few, by comparison with only one in eight (12%) of those with twenty channels or more.

Satisfaction with the number of channels available does not mean there is a lack of interest in additional programming. There is a great deal of duplication of programming on existing channels and this could foster the view that more channels are not needed. But when Canadians are asked about specific services, their views may be different. For example, an Environics media study conducted in the fall of 1986 found that about seven out of 10 cable subscribers would be either very interested (28%) or somewhat interested (40%) in having a non-commercial channel carrying programming for children and young people, National Film Board programs, the best of foreign public TV, popular Canadian TV programs from the past, and Canadian cultural programming such as music, drama, ballet and opera.

In the 1985 Gallup survey Canadians were asked by what means they would prefer to see new television channels added, assuming that this was to be done. By a margin of roughly three to one (60% to 22%) the respondents said they preferred additional Canadian channels to imported American channels.

In a simpler world, the fact that Canadians want to have Canadian broadcasting services and Canadian programming should in itself ensure that they would be available. Similarly, the fact that francophone Canadians would like to have more French-language channels should ensure their availability. However, the reality of broadcasting is such that there are other factors which also help to determine what will be offered to Canadians. In the case of television particularly, non-Canadian (primarily American) programs are available at a small fraction of their production cost and/or of the cost of producing comparable kinds of Canadian programs, thus creating a tremendous incentive to import. Realities like this combined with the finite number of stations and networks which can be licensed and financed have created the need for deliberate and coherent public policies for broadcasting. The remainder of this Report is directed to those practical questions.

2.0 CANADIAN RADIO

2.1 *Introduction*

Canadians are served by approximately 700 AM and FM radio stations, ranging from big-city stations with a potential reach of millions of listeners to local low-powered community stations serving a few hundred native people in remote areas. Tables 2.1 through 2.5 show the numbers and types of station by network, language and province.

While television has become a mainly cable-delivered medium, radio is still received over the air by all but a handful of listeners. Thanks to reception over portable battery-powered receivers, radio can and does travel almost everywhere, not always to everybody's delight. The average Canadian tunes to radio for almost 20 hours each week, according to the 1987 fall figures of the Bureau of Broadcast Measurement (BBM), with listening time for francophones being fractionally longer than for anglophones.

Table 2.1 Radio Stations by Language, Type and Network Affiliation, 31 December 1987

	English	**French**	**Native**	**Ethnic**	**Bilingual**[1]	**TOTAL**
AM						
CBC Owned	48[2]	23[3]	-	-	-	71
CBC Affiliate	12	7	-	-	-	19
Independent[4]	265	53	4	6	1	329
TOTAL AM	**325**	**83**	**4**	**6**	**1**	**419**
FM						
CBC Owned	17	11	-	-	-	28
CBC Affiliate	2	2	-	-	-	4
Independent[4]	158	54	36	2	1	251
TOTAL FM	**177**	**67**	**36**	**2**	**1**	**283**
TOTAL	**502**	**150**	**40**	**8**	**2**	**702**

[1] The two bilingual radio stations are in Ontario and Quebec.

[2] Twenty-two of the CBC-owned stations are low-powered information transmitters or rebroadcast transmitters. See Table 2.2.

[3] Ten of the CBC-owned stations are low-powered information transmitters. See Table 2.3.

[4] Independent includes commercial, community, and educational stations.

Source: CRTC

Table 2.2 English-Language Radio Stations by Province, Type and Network Affiliation, 31 December 1987

	NF	PE	NS	NB	QC	ON	MB	SK	AB	BC	YT	NT	TOTAL
AM													
CBC Owned	4	1	1	4	1	4	2	1	12[1]	14[2]	1	2	48
CBC Affiliate	-	-	-	1	1	4	1	-	-	5	-	-	12
Independent	18	4	19	9	6	85	13	18	38	53	1	1	265
TOTAL AM	22	5	21	14	8	93	16	19	50	72	2	3	325
FM													
CBC Owned	2	1	2	2	1	3	1	1	2	1	-	1	17
CBC Affiliate	-	-	1	-	-	1	-	-	-	-	-	-	2
Independent	4	1	6	7	6	78	7	6	15	25	2	1	158
TOTAL FM	6	2	9	9	7	82	8	7	17	26	2	2	177
TOTAL	28	7	30	23	15	175	24	26	67	98	4	5	502

[1] Ten of the 12 CBC-owned stations in Alberta are low-power information transmitters in National Parks.

[2] Twelve of the 14 CBC-owned stations in British Columbia are essentially rebroadcast transmitters but offer some local community access.

Source: CRTC

Table 2.3 French-Language Radio Stations by Province, Type and Network Affiliation, 31 December 1987

	NF	PE	NS	NB	QC	ON	MB	SK	AB	BC	YT	NT	TOTAL
AM													
CBC Owned	-	1	-	1	5	3	1	-	11[1]	1	-	-	23
CBC Affiliate	-	-	-	-	7	-	-	-	-	-	-	-	7
Independent	-	-	-	2	50	1	-	-	-	-	-	-	53
TOTAL AM	-	1	-	3	62	4	1	-	11	1	-	-	83
FM													
CBC Owned	-	-	-	1	5	3	-	1	-	1	-	-	11
CBC Affiliate	-	-	-	-	2	-	-	-	-	-	-	-	2
Independent	-	-	-	3	49	2	-	-	-	-	-	-	54
TOTAL FM	-	-	-	4	56	5	-	1	-	1	-	-	67

[1] Ten of the 11 CBC-owned stations in Alberta are low-power information transmitters in National Parks.

Source: CRTC

Table 2.4 Native-Language Radio Stations by Province, Type and Network Affiliation, 31 December 1987

	NF	PE	NS	NB	QC	ON	MB	SK	AB	BC	YT	NT	TOTAL
AM													
Independent	-	-	-	-	-	1	3	-	-	-	-	-	4
FM													
Independent	6	-	1	-	18	1	-	1	1	-	3	5	36
TOTAL	6	-	1	-	18	2	3	1	1	-	3	5	40

Source: CRTC

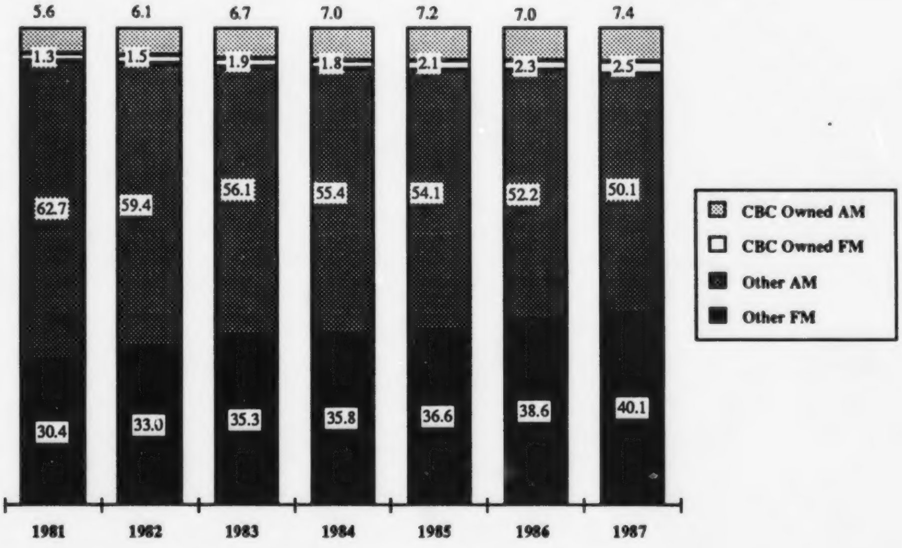
Table 2.5 Multilingual Radio Stations by Province, Type and Network Affiliation, 31 December 1987

	NF	PE	NS	NB	QC	ON	MB	SK	AB	BC	YT	NT	TOTAL
AM													
Independent	-	-	-	-	1	2	1	-	1	1	-	-	6
FM													
Independent	-	-	-	-	-	2	-	-	-	-	-	-	2
TOTAL	-	-	-	-	1	4	1	-	1	1	-	-	8

Source: CRTC

According to a survey conducted in the autumn of 1986, 90 percent of Canadians listen to radio in an average week, making it the second most popular medium after television. [Environics Research, *The Media Study*, March 1987.] The share of listening among public and private AM and FM stations from 1981 to 1987 is shown in Figure 2.1 for English-language radio and in Figure 2.2 for French-language radio.

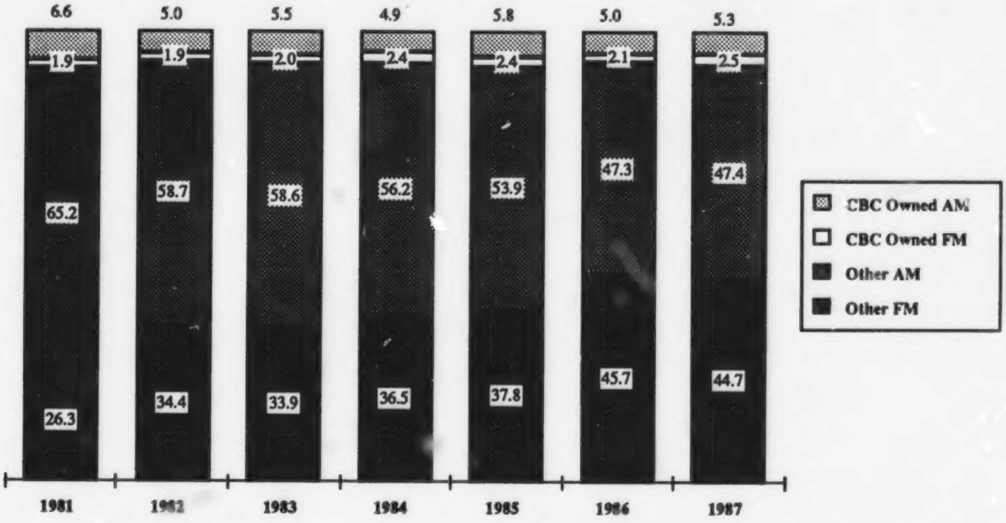
Figure 2.1 English Language Radio, Trends in the National Share of Listening, Fall 1981-1987 [1]



[1] Because BBM changed its survey methodology in Spring 1981, Fall 1981 is used as the initial reference point

Source: CBC Research (BBM)

Figure 2.2 French Language Radio, Trends in the National Share of Listening, Fall 1981-1987 [1]



[1] Because BBM changed its survey methodology in Spring 1981, Fall 1981 is used as the initial reference point

Source: CBC Research (BBM)

In this chapter we will consider issues and recommendations concerning not only the traditional public and commercial broadcasters, but also the newer community radio broadcasters, including stations directed at special interest listeners, student stations, and stations serving native people in remote areas. First, however, we will briefly review the evolution of the radio broadcasting system in Canada.

Regular commercial broadcasting began in both Canada and the United States in 1920, the first Canadian experimental station (now station CFCF) having been licensed the year before to the Canadian Marconi Company in Montreal. Soon high-powered American stations with strong commercial backing had obtained the best frequencies and were forming networks that dominated listening in Canada. As advertising became the chief financial support of radio, the tendency was to treat Canada as a valuable but marginal addition to the American market. Canadian stations were able to produce only relatively inexpensive local programs, while American networks could spread the costs of star entertainment productions over their huge market.

The main source of distinctive Canadian programming was the broadcasting service of the publicly-owned Canadian National Railways, developed to serve rail passengers, hotel guests and employees but also available more broadly to the general population. The CNR was instrumental in setting up the first coast-to-coast radio network to celebrate Canada's Diamond Jubilee in 1927. This gave the country a taste of what could be achieved if a concerted effort were made to create national programming instead of relying on the American networks.

Controversy over the licensing of frequencies to religious groups became the pretext for appointing a Royal Commission on Radio Broadcasting in 1928. The following year it recommended that Ottawa and the provinces establish a public system which was to own all the country's radio stations and give Canadians Canadian broadcasting. In 1932 the Bennett Conservative government proceeded to establish a public system, the Canadian Radio Broadcasting Commission (CRBC), after receiving a judicial ruling that radio transmission and reception were matters of exclusive federal jurisdiction.

The CRBC departed from the Royal Commission recommendation in that private stations, of which there were about 65 at the time, were permitted to exist side by side with public stations and the public network was to use affiliated private stations to extend service to the whole country. The Royal Commission's proposal of provincial participation in the national broadcasting authority was set aside following the court decision, but its main purpose — to assure the provision of French-language service based on Quebec — was fulfilled by establishing both French and English networks. In 1936, the public system was given a firmer organizational base, at arm's length from the government, by transforming the CRBC into a crown corporation, the Canadian Broadcasting Corporation, which also served as regulatory agency for all broadcasting. Canada's mixed public-private radio system was on its way.

What happened in radio has become extremely important to all types of broadcasting in Canada. As successive inquiries looked again into radio, then into television, cable, and satellite-to-cable services, they found — as the first inquiry had — that market forces on their own would not supply Canadians with adequate Canadian services: a public element would be needed, and the private element would be required to live up to some public-interest commitments. Frank W. Peers, the leading authority on Canadian broadcasting policy, describes the persistence of the vision, and of all-party support for it in Parliament, as "a stubborn determination to control our own mass communications". [Frank W. Peers, *The Politics of*

Canadian Broadcasting: 1920-1951, Toronto: University of Toronto Press, 1969, p. 4.]

The most controversial aspect of the system in its first 20 years was the regulation of private radio stations by the CBC, which the private stations regarded as a competitor, since the CBC carried advertising. This problem was finally resolved to the satisfaction of the private sector in 1958, when the new *Broadcasting Act* established the Board of Broadcast Governors as a separate regulatory agency. This separation was preserved when the BBG was replaced by the CRTC in 1968.

In the early days of radio, powerful stations were heard over vast areas. Gradually the means of exploiting and managing the electromagnetic spectrum of radio frequencies were improved. Transmission by frequency modulation (FM), with greater sound fidelity, was added to transmission by amplitude modulation (AM). In these two ways and through improved international cooperation in allocating frequencies, the number of stations the airwaves could carry was multiplied beyond the dreams of the pioneers. However, the tendency in what was now a more orderly system was for the coverage area of stations to be reduced to individual centres of population and their immediate surrounding areas.

Major urban communities such as Toronto, Montreal and Vancouver each have a score and more of radio stations. These big city stations have a disproportionate share of listening, as they can afford to specialize in particular kinds of programming and attract audience from the surrounding areas. Radio stations in smaller centres must have a more varied program format, serving a wider variety of tastes. Most Canadians can tune to at least three or four radio stations. As illustrated in Figure 2.1 and Figure 2.2, the major change in recent years has been the steady increase in listening to FM, with its better quality of sound, at the expense of AM. The balance of AM and FM is examined at greater length in the section on private radio. In the years between 1977 and 1986, FM increased its listening share from 17 percent to 43 percent. In major centres FM has more than 50 percent of the radio-listening audience.

The picture of radio listening given by the Environics media study mentioned above shows a slight skew toward younger and more financially independent Canadians by contrast with television. The study covered a representative sample of 4,006 adults (18 years and over) who replied to questionnaires in hour-long, in-home interviews.

Radio's peak listening hours are in the morning ("morning drive") up to about 9 o'clock, with a second but lower peak in the late afternoon ("afternoon drive"). Then radio listening plummets as TV-watching takes over.

Of the Canadian population, 28 percent say they tune frequently (listen on a regular basis) to CBC English, 12 percent to CBC French, 87 percent to other Canadian stations, and 14 percent to American stations. These groups overlap, since many tune regularly to more than one type of station. The 14 percent who listen regularly to American stations is in striking contrast to the 62 percent of Canadian TV viewers who said they regularly watch American ABC, NBC, or CBS network stations. These figures are, of course, quite different from those giving shares of listening hours to various types of station, as illustrated in Figures 2.1 and 2.2.

The challenge facing French-language broadcasters is evident in responses showing that 13 percent of francophones listen to radio entirely or mostly in English, 15 percent listen equally in French and English, and 72 percent listen entirely or mostly in French. Among English-language viewers, none listen entirely or mostly in French, two percent listen equally in both languages, and 98 percent listen entirely or mostly in English.

The CBC audience was skewed toward the older and better educated but spread over all income groups.

The Environics media survey indicated that 84 percent of all adult listeners regularly listen to news and weather reports, while 77 percent regularly listen to music. Other choices for regular listening were: news analysis (49%), sportscasts (39%), talk or phone-in shows (34%), and live coverage of sports (25%). The study found that talk shows appeal most to radio listeners at the bottom end of the education and income scales. Sixty-four percent of those interviewed said they were regular listeners to morning drive shows, and 40 percent to late afternoon drive shows.

Unfortunately, programming and viewing data are sadly lacking in the case of community radio, discussed later in this chapter. The community sector as a whole, both radio and television, has not received the attention it deserves, and must have, before adequate policies can be developed.

Finally, an extremely small category of radio broadcasting is constituted by educational radio stations. Only in Alberta and Ontario have such stations been licensed. (These are distinct from student radio stations which qualify as community stations.)

2.2 Licensing and Regulation

Both the Task Force and this Committee have endorsed the new direction of the CRTC in making greater use of conditions of licence specific to individual licensees, rather than relying only on blanket regulations applicable to all licensees in a particular class. The proliferation and desirable variety of stations makes it necessary to complement blanket regulations applying to all, with conditions of licence under which each station makes a suitable contribution according to its individual circumstances and resources for the privilege of using publicly-owned airwaves.

It remains particularly important for the Commission to have clear policies regarding section 3 objectives, such as Canadian content, high standards, balance and so on, whether the means of applying them is blanket regulations or licence conditions. In radio, the chief area of regulatory differentiation is the distinction between AM and FM broadcasters.

When the CRTC undertook to formulate FM radio regulations in the early 1970s it took into account the complaints that had been made about the homogeneity and commercialism of existing programming on AM radio. It decided that FM would need to be distinct from AM, more diversified in content, and carry less advertising. At the same time, these requirements protected AM in Canada from the faster transition to FM listening that occurred in the United States and also gave this country more varied programming on private radio than may be heard in the United States.

The views of the CRTC were embodied in the 1975 regulations for FM stations, which were amended in 1986. They established a number of format requirements, musical categories and advertising limits for private AM and FM radio. The CBC AM and FM stations were not subject to the same format requirements and, of course, were not affected by advertising limits.

The Commission developed the new concept of "foreground" format to contrast with the almost continuous programming of music and chat into which most private radio stations had lapsed. Foreground programming, by contrast, was intended to grasp and hold the listener's attention. It was to pursue a single theme and to have a sense of form and purpose. Programs in foreground format might document a municipal issue, give a profile of an interesting personality, illustrate a musical theme, and so on.

Under today's rules, programs in foreground format are not to be shorter than 15 minutes and must take up at least 15 percent of the broadcasting schedule of an FM station owned jointly with an AM station in the same market, or nine percent in the case of a separately-owned FM station. Other types of format are described as gramophone (record spinning), rolling (gramophone plus a few introductory words for each record and occasional announcements), and mosaic (any other kind of programming with more enriching elements than the gramophone and rolling formats).

FM stations are licensed to broadcast in popular or specialized music programming formats. In popular format, a station is licensed on the basis that it select at least 70 percent of its music from one of four musical groups. Group I covers what the CRTC designates as Category 51 music — popular music and softer rock — and could be an easy listening format (mostly instrumental music), a middle-of-the-road (MOR) format (including vocal music), or a fairly up-tempo or adult contemporary type of music. The Canadian content requirement in Group I is 20 percent for stations playing mostly vocal music, and 10 percent for stations playing mostly instrumental.

Group II consists of music from Category 52, which is the harder side of the popular and rock spectrum, including adult-oriented rock (AOR). Stations in this group must observe a 20 percent Canadian content requirement in their musical programming.

Group III is country music and carries a 30 percent Canadian content requirement. This is to be maintained for a period of two years under a 1987 CRTC decision which followed a special study of the adequacy of supply of Canadian country recordings. Where music qualifies as both "popular" and "country" it may qualify for playing by stations in both Group III and — depending on the song — either Group I or Group II. Group IV consists of any mixture of the other three Groups and carries a Canadian content requirement in accordance with the station's commitment to particular types of music. Most of these stations have a 20 percent Canadian requirement.

Aside from the popular music groups, other formats include classical and fine arts, jazz (there are no stations in this format at present), other specialized types of music, and ethnic music, all of which carry a requirement of seven percent Canadian content.

The quotas for Canadian content are based on the availability of recordings that qualify as Canadian in the various formats. A record qualifies as Canadian if it meets two of the four so-called MAPL criteria: M for Music composed by a Canadian; A for music or lyrics performed principally by a Canadian Artist; P for live Performance recorded wholly in Canada, or Performed wholly in Canada and broadcast live in Canada; and L for Lyrics written by a Canadian. Most often, music qualifies as Canadian on the basis of performance and recording rather than composition and lyrics.

The CRTC limited advertising on FM stations to 150 minutes a day in 1975, but effectively increased that under the 1986 Regulations by exempting advertising on designated types of foreground programming produced by Canadians from the quota. It also removed hourly limits on commercial content.

In contrast, the AM regulations refrained from imposing formats and allowed AM stations to play any kind of music they wanted. The AM stations' music programming was required to be 30 percent Canadian using the MAPL criteria, with five percent of the selections being by Canadian composers or lyricists. Under the 1986 Regulations, time limits on advertising on AM stations were lifted altogether.

Until the 1988 CBC radio licence renewal, when the CRTC imposed higher Canadian content quotas for all CBC radio networks, CBC stations were observing the same Canadian content quotas for their AM stations as the private stations.

In addition to the Canadian content standard, French-language radio broadcasters are generally required through conditions of licence to observe a 55 percent quota in French-language vocal music. This level was set by the CRTC in March 1986 for two years as a relief from the 65 percent French-language quota that had prevailed to that time; this period has since been extended by another year. The two-year period was intended to give time to increase production of French-language recordings with the help of new government and private-sector development programs.

After a review of community radio policy, the CRTC introduced a new set of regulations in 1985. The Commission reaffirmed its intention to foster radio stations supported by the community and broadcasting programs produced by, or with the help of, members of the community, reflecting the interests and activities of community members in a unique way.

The Commission defines a community station as one owned and controlled by a non-profit organization whose structure provides for membership, management and operation primarily by members of the community at large. The 1985 regulations add the proviso that programming must offer community access and reflect the interests and special needs of the listeners the station is licensed to serve. The Commission expects applicants as part of their promise of performance to reserve as much time as possible for programming produced by community members, particularly those with special programming needs.

The Commission recognizes that communities differ in their ability to support a radio station, in their access to other broadcasting services, and in the programs they want to listen to. The new regulations are therefore designed to be flexible on issues such as access to advertising revenues and programming requirements, taking into account the presence of other AM and FM radio services in the same market.

Community stations use FM frequencies and are licensed in two categories. Type A licences are granted to stations in markets where there is no other station in the same language. Type B licences are awarded in markets where there is at least one other station. Type A stations broadcasting from 6 a.m. to midnight, seven days a week, are allowed up to 250 minutes per day of advertising, with a ceiling of 1500 minutes per week. Type B stations are limited to a total equal to four minutes an hour per day with no more than six minutes in any hour. There are no longer any restrictions on the kinds of advertising Type B stations may carry. The objective is to allow stations to increase revenues and better fulfil their mandate, not to treat them as a species of commercial station. Licensees will still need to seek substantial funding from other sources, particularly within the community.

Community stations are expected to exceed the minimum requirements of the FM regulations for foreground and mosaic programming, because the Commission feels these formats are especially well suited to the needs of the community sector. Although the Commission imposes no specific spoken word requirements on community stations, applicants and licensees are expected to explain how their proposed spoken word levels satisfy the requirements of their particular communities. Generally, type B licensees are expected to provide a minimum of 35 percent spoken word programming, although actual requirements vary according to the cirumstances of each community. The Commission requires music content to be diversified and to provide for both traditional and special interests. Type A stations are permitted to affiliate with a network, or to acquire programming from other community stations. But again, this concession is intended to improve the quality of programming. Stations are expected to provide as much local programming as circumstances permit.

2.3 Public Radio: CBC Services

CBC radio, which celebrated its 50th anniversary in 1986, provides an important alternative to private radio in Canada. From its moribund state twenty years ago, it has evolved and attracted loyal audiences by finding a distinctive niche in Canadian broadcasting. CBC radio is valued particularly for its information and arts programming. In most of its programming it uses overwhelmingly Canadian sources, drawing on the talents and resources of all regions and generally fulfilling its mandate under the *Broadcasting Act*.

Inaugurated in 1936, the CBC succeeded the 1932 Canadian Radio Broadcasting Commission, which was created primarily to stave off the threat of American domination of Canada's airwaves. The Corporation began as a national system of public and affiliated private radio stations. Although reliant on popular American programs at the outset, the CBC put down roots in news, classical music, popular Canadian entertainment and hockey broadcasts. Canada's entry into World War II gave impetus to development of the CBC, with nationally known war correspondents and programming designed to stir Canadian consciousness. Radio was primarily an entertainment medium, and the CBC provided the only national network programming. After the war, the CBC moved more into drama, classical music and public affairs, while retaining its core of popular programs. However, the introduction of television in the 1950s led to the gradual decline of radio as resources and energies were directed to building the television networks. Audiences shifted toward television, particularly for programs where visual impact counted strongly; the perception of radio underwent some fundamental transformations. The prime time for radio shifted to the early morning and late afternoon "drive" periods, and radio was regarded as background sound for other activities, composed principally of recorded music and locally-oriented news and information.

By 1968, although approximately two million Canadians listened at some point during the week to CBC's French and English radio, it was in danger of becoming irrelevant. The *Radio Report* of 1970 (better known as the Ward/Meggs Report), was a landmark study that pointed the way to revival in the 1970s, and precipitated what was to become known as the "radio revolution". A series of new programs was created, local and regional information programming was strengthened, particularly during the popular "drive" periods, and commercials were discontinued. These developments were followed by the inauguration of English- and French-language FM services in 1974-75 and the policy of "disaffiliation" which replaced private affiliates with transmitters.

CBC radio today consists of four services, English and French mono on the AM band and both language services in stereo on FM. The distinctions are sometimes confused by the delivery of the English mono service via the FM band in certain areas, and the distribution in French of a third program stream, known as the *service de base*, combining daytime programming from the French mono service and evening programming from the French stereo service. CBC has proposed redesignating its mono and stereo services Radio 1 and Radio 2 as a more appropriate way of distinguishing them.

The French mono network consists of 16 CBC-owned stations, all of which are production centres, and 169 CBC-owned rebroadcast transmitters. In addition, there are six privately-owned affiliates. The network covers a broad range of interests, including music and entertainment, but concentrates on information programming. Although it is centred in Montreal, regional and local programming account for about 30 hours a week per station. In addition, about seven percent of network programming is produced in the regions, rather than at network headquarters.

The English mono network has 31 CBC-owned radio stations, 410 CBC-owned rebroadcasters and 8 privately-owned affiliates. Regional or local programming accounts for approximately 35.5 hours per week, and about 45 percent of network programming is also originated in the regions. Like the French mono service, the English mono network concentrates on information, covering a wide range of general and special interests.

CBC French stereo has six CBC-owned stations and one CBC rebroadcasters. The English stereo network has 10 CBC-owned stations and 11 CBC rebroadcasters. Both mono services operate 24 hours a day, and concentrate on music, drama, arts, literature — in other words, cultural and performance broadcasting — interspersed with newscasts. Local or regional programming is minimal on both stereo networks: there is none on the French service, except station identification and program announcements, while the English network provides only about an hour a week. Much network programming on both services originates in regional centres, however; on the English side, regional input totals approximately 70 percent, including full programs and program segments.

Both the French and English mono services reach 99 percent of their respective linguistic groups. This is somewhat misleading, however, since those Canadians who have access only to CBC affiliates may receive as little as 20 percent of the network schedules. Typically, CBC private radio affiliates carry only a limited amount of CBC network programming, largely because of the non-commercial character of CBC radio.

The coverage of the stereo services is less extensive. The French stereo network reaches 76 percent of French-speaking Canadians, the English network reaches 72 percent of English-speaking Canadians. In addition, the stereo services are available by satellite to cable companies, making French stereo potentially available to 83 percent of French-speaking Canadians and English stereo to 86 percent of English-speaking Canadians.

Nearly four million Canadians tune to the CBC radio networks. In the fall of 1987, the English mono and stereo networks had a reach of 17 percent of the anglophone population, and a share of 10 percent; the French networks had a reach of 15 percent and a share of 7.8 percent. The figures are slightly higher in areas served by CBC stations rather than affiliates.

The radio-listening audience is fragmented, particularly in large urban areas where numerous radio stations are available off-air. For the CBC to obtain about 10 percent of the audience means that it is doing much better than many private stations; in a number of markets, CBC radio shows up fairly near the top of the ratings, and obtains a significant audience.

2.3.1 Programming on CBC Radio

All broadcasters must decide whether to seek a mass audience or specialized segments of audience. Since all taxpayers contribute to the CBC, there is an argument that it should serve them all. No broadcaster, however, can be all things to all people.

While the Committee believes that the CBC must reject an elitist approach to programming, this does not mean that the Corporation should provide mass audience programming, based on conventional commercial programming. Instead, the approach the CBC should take is to program to a wide range of interests and tastes, not necessarily at the same time and through the same programs. It is important that the CBC should recognize that there are certain specialized interests, as well as a number of minority groups within the population that are not adequately covered by other broadcasters and that are, under the CBC's legislative mandate, a particular responsibility of the CBC.

The CBC has, in fact, attempted to balance the varying interests of Canadians. Generally, the AM services appeal to large audiences with information programming of local, regional and national interest, and other general-interest programs. But they also deal with topics of special interest to particular listening groups, such as the agricultural community. CBC radio does not attempt to keep the same audience for its entire program schedule; while there are many loyal CBC listeners who listen only to CBC radio, many others tune only to specific programs, and frequently listen to other radio stations as well.

On the FM stereo networks, the emphasis is on cultural and performance programming. CBC stereo provides one of the few opportunities for listeners to hear classical music, opera, jazz, and other more specialized kinds of music, as well as radio drama.

In addition to the mix of popular and special-interest programming, CBC must also balance national, local and regional programming. One of the objectives of the "radio revolution" in the 1970s was to enhance local and regional programming, particularly in the "drive" periods; the result has been local current affairs programming that provides a distinctive alternative to the fare offered by private broadcasters.

Radio — after the introduction of television — has developed as a locally-oriented medium. For the CBC to be only a collection of local or regional stations would be prohibitively expensive; moreover, it would be an abdication of its responsibilities set out in the *Broadcasting Act* to "serve the special needs of geographic regions, and actively [contribute] to the flow and exchange of cultural and regional information and entertainment" and to "contribute to the development of national unity and provide for a continuing expression of Canadian identity." [*Broadcasting Act*, R.S.C. 1970, chap. B-11, Section 3(g)(iii), (iv).] By the same token, the CBC should not become just a network service, with no local programming.

The CBC radio networks have managed, in varying degrees, to achieve a balance of regional and national programming. The mono services have significant local or regional components, while the stereo services have opted for network programming. In both cases, however, network programming often originates from regional centres, either in shows being produced outside Montreal or Toronto, or in segments of shows or concerts being supplied by the regions. CBC radio has been notably more successful than CBC television in assigning production to the regions.

CBC radio also provides a national news service, with an extensive network of regional and international correspondents and stringers. While the capacity of the CBC to provide a Canadian perspective on international news and events is not as fully developed as it might be, the Corporation is far better equipped to provide that view than private Canadian broadcasters. For francophones outside Quebec, the CBC often provides the only French-language service available to them.

As Pierre Juneau recently told a CRTC hearing, CBC radio is "the single most Canadian of the broadcast media". [Statement, 13 October 1987, p. 7.] With the singular exception of recorded music, the programming on all networks is overwhelmingly Canadian. Canadian broadcasters, journalists, writers, musicians, artists and others are the backbone of CBC radio; it deals with Canadian issues and issues of interest to Canadians, showcases Canadian talent, and lets Canadians know what is going on across the country.

2.3.2 Availability of CBC Radio Services and Programming

While the CBC is often the subject of criticism and complaints, attitudes to CBC radio are overwhelmingly positive. All across the country the Committee heard support for CBC radio time and again. In fact, the most common and pressing complaints concerned the inability of certain areas to receive full CBC radio services. Even where groups and individuals had specific criticisms of CBC radio, these generally took the form of constructive criticism and suggestions, on the grounds that there is always room for improvement. During the recent CRTC hearing into the renewal of the CBC's radio network licences, the Commission received 785 interventions, the overwhelming majority of which were positive.

CBC radio has not been immune to the Corporation's budgetary constraints. The operating budget for CBC radio in 1987-88 was $170.6 million, or about 16.3 percent of the total CBC budget, a percentage that has been fairly stable over the past five years. Nevertheless, programming has suffered to some extent from budget reductions and inflation-reduced budgets, usually in the form of increased repetition, cutbacks in news correspondents and freelancers, fewer commissioned works, and less travel and time to prepare interviews and documentaries.

The Task Force on Broadcasting recommended that -

> The main CBC radio services should at a minimum be spared any further budget cuts, in order to allow CBC radio to function to the highest creative and technical standards. [Recommendation 10.6, *Report* p. 286.]

In the autumn of 1987 the CBC board of directors approved a corporate plan promising radio full protection from further reductions for the next three years. The Committee endorses this decision. Elsewhere in this report, we discuss the question of separate votes on CBC parliamentary appropriations as another possible way of dealing with this issue.

The Task Force also recommended that:

> Both English and French CBC radio services should receive sufficient funding to allow them to proceed with completion of the Radio Affiliate Replacement Plan. [Recommendation 10.8, *Report* p. 292.]

As indicated earlier, CBC radio networks were developed as a combination of CBC and private affiliated stations. The use of affiliates extends coverage, but also has disadvantages, as the CBC explained to the Committee:

> In the case of both the English Radio and the French Radio affiliates, they deliver relatively few hours per week of CBC programming (no more than 25 hours a week, or about 20 percent of the schedule, in most cases). Much of this programming is scheduled on a delayed basis, and heard in off-peak listening times. [CBC, written reply, Question No. 2, January 1988.]

Canadians whose only access to CBC radio is an affiliate are thus denied the full service.

In the early 1970s the CBC instituted the Radio Affiliate Replacement Program (RARP), under which dozens of affiliates were replaced with transmitters. The program has been suspended owing to budgetary restraints. To date there has been significant progress: only 9 English-language radio affiliates and seven French-language remain. As late as 1970, CBC English-language radio had 64 affiliates and CBC French-language radio had thirty-five.

The principal advantage of replacing affiliates with CBC stations or rebroadcasters is to bring listeners the entire schedule, fulfilling the responsibility of the CBC under the *Broadcasting Act* to extend service to all parts of Canada as public funds become available. Generally speaking rebroadcast transmitters have been established to carry the full service of the nearest CBC owned and operated station, rather than setting up a new CBC station which would originate programming locally. However, there are drawbacks in addition to capital and maintenance costs. The most noteworthy is the possible loss of audience where affiliates providing local service have been replaced by transmitters. The CBC's share of the national radio audience declined under the program of "disaffiliation" during the 1970s as the growth in audiences for CBC stations did not completely offset losses in audiences for affiliates. However, listeners to affiliated stations should not perhaps be characterized necessarily as "CBC" listeners unless they are listening to CBC programming. The other disadvantage of replacing affiliates has been the listener disruption caused by the fact that FM transmitters often were chosen as replacements because of their technically superior performance and lower cost compared to AM transmitters.

The Committee agrees with the Task Force that the CBC should complete the RARP, though recognizing that the erection of rebroadcast transmitters is not a perfect solution in itself. In contrast to television, disaffiliated private radio stations will probably not be hurt financially. The cost of completing RARP would not be exorbitant: between $5 and $6 million, which could be appropriated over time. Replacement should be seriously considered before any existing affiliation agreements are renewed.

Recommendation 1

> The CBC should complete its program of replacing private affiliated stations with CBC transmitters in order to help extend the full radio service to all Canadians in accordance with the aims of the *Broadcasting Act*.

The Corporation's distinctive mono and stereo networks complement one another. The public therefore should have access to both.

CBC stereo, including music, drama, literature and other performance programming, is particularly important for the arts in Canada. It showcases Canadian artists and creativity, benefits the artists and serves a significant number of Canadians who appreciate this kind of programming, especially those outside major urban areas who would not otherwise have access to such a variety of cultural activities. Radio represents a much less costly means than television of making available the work of Canadian creators and performers. Many of the writers, composers, performers and performing arts companies whose work is broadcast on CBC stereo often receive assistance through the Canada Council and similar provincial government funding agencies.

As the CRTC explained to the Committee, regulations require the carriage of CBC services by cable companies in certain circumstances:

> The Commission, by regulation, obligates all large cable companies to carry the CBC stereo services. Similarly, all medium to small sized cable companies in small urban areas, who elect to carry any audio services must carry at least one English and one French CBC radio service. In addition, the Commission encourages all medium- to small-sized cable companies, including those in remote and underserved areas, to carry the CBC stereo services. [CRTC written response, January 1988, Question 3.]

The CRTC Cable Television Regulations, however, do not require that cable operators carry the local or regional CBC mono service when both the mono and stereo services are in the same language. Reception of CBC service off-air on the AM band can be inadequate in built-up areas where an electronic fog created by microwave and other broadcast signals, including data transmission, and the presence of high-rise buildings can create interference for local CBC transmitters. These signals could be remodulated at cable head-ends for distribution with other signals on the FM band. As the Task Force observed:

> If carriage of CBC AM signals were assured by regulation in all areas served by cable, quality of coverage would be greatly enhanced in densely populated areas suffering from interference problems, and in other areas not served, or poorly served, by the mono services using conventional transmitters. Consideration should be given to including regional signals in such a requirement, in addition to local signals, as defined in the regulations. [*Report*, p. 292.]

Cable carriage of radio signals is not, of course, a perfect solution as it requires access to a cable connection, but it does provide a means of ensuring that more people will be able to hear CBC radio services, at least in their homes although not in their cars, and that reception will be clearer.

It should also be pointed out that there are English-speaking Canadians who would appreciate the opportunity to listen to the entire programming offered by the French stereo network. Cable carriage of all four CBC radio services would provide many Canadians with access to the radio services funded by their tax dollars, without incurring the costs of new transmitters. Accordingly, the Committee agrees with the intention of the

Task Force recommendation, but would extend it to include the four CBC French and English radio services.

Recommendation 2

> The CRTC should amend its Cable Television Regulations to require cable systems to carry as a priority the CBC French and English Stereo (FM) signals, as well as CBC French and English Mono signals (AM), along with appropriate subcarriers, regardless of whether these signals are available from a local or regional source, or by satellite.

As already noted, the CBC stereo networks fall well short of full coverage of either the French-speaking or English-speaking audiences. Cable carriage is part of the answer, but has obvious limitations. Stereo extension would be costly but obviously desirable for the unserved. The CBC does not intend to create new stations, which would be prohibitively expensive and not really required since nearly all the programming is network rather than local. It plans to use landlines, conventional rebroadcast transmitters or satellite-to-transmitter technology, which is increasingly available and reduces distribution costs.

For English stereo, it would cost $37 million to move from the existing 72 percent coverage to 90 percent. In the short-term, it would cost about $10 million to increase coverage to 82 percent. Costs for the extension of the French stereo service would be $3 million in order to cover all communities having a francophone population of at least 40,000. At present, only six centres receive both French radio networks: Moncton, Rimouski, Chicoutimi, Quebec City, Montreal, and Ottawa-Hull. In all other regions, listeners receive the "service de base".

The Task Force made two recommendations on the extension of stereo services:

> Funding for CBC English Radio should be sufficient to allow it to extend the Stereo service gradually over a five-year period, with a view to ensuring as complete a coverage pattern as is practicable, utilizing satellite technology to the fullest possible extent. [Recommendation 10.12, p. 295.]

> Funding for CBC French Radio should be sufficient to allow it to extend the Stereo service gradually over a five-year period, with a view to dismantling the "service de base" as the full two-network service becomes available in each region. [Recommendation 10.13, p. 296.]

The Committee was reminded in its hearings across the country that large areas are denied CBC stereo services. It is unfortunate that centres as large as Victoria and Charlottetown are without the English stereo service, and that other areas such as Cornerbrook, Newfoundland, parts of Nova Scotia, and parts of southern Ontario also lack access to the full CBC English mono and stereo services. Likewise, there are a dozen or so major centres with a francophone population of over 40,000 that receive only the "service de base". Budgetary constraints in recent years have held back extension of CBC radio services while capital priorities were focused on existing services. These should not be put at risk for the sake of expanding coverage.

It is expensive to reach every last listener and make the radio services available to everyone. As a matter of principle, however, it must be established that the CBC has a responsibility for providing basic service as widely as possible, including service to official language minorities. Not only do all taxpayers pay for the CBC, but the services are extremely important to Canadian cultural life.

The Committee believes that there is a need to extend the CBC's stereo services as a priority. Budget constraints may require that such extension be carried out over a number of years, with an emphasis initially on larger communities which are still without service. Nevertheless, recognizing the unique programming role of these services, clear plans and objectives must be set for both the short and long term, to extend public access to the stereo programming services of the CBC.

Recommendation 3

> The capital budgets of the CBC should be sufficient to allow the Corporation gradually to extend the transmission of its French and English stereo services.

The Task Force suggested that the CBC should consider syndicating some of its material to private stations. This would give them access to a much wider variety of Canadian current affairs, documentary and dramatic programming than they now carry. It would also raise the public profile of the CBC among audiences which might otherwise never tune to CBC radio; it would give greater exposure to the creative personnel involved in the production of the syndicated programs; and it would be an alternative to the use of American programs that are syndicated in Canada.

The Task Force emphasized that costs of syndication should be recovered. It suggested distinguishing between re-use with or without commercials, and that the CBC would have to take care not to compete against itself.

The CBC already engages in a form of syndication outside Canada by providing *As It Happens* and *Sunday Morning* to American Public Radio, the publicly-funded American network, although this generates gross revenues of only about $40,000 (U.S.) a year. Most programming provided to American, European and other public broadcasters is through program exchange.

The CBC agreed with the syndication principle in the following reply to the Committee:

> In principle, the idea of syndicating CBC program material to Canadian private radio stations is a sound one. This could provide new outlets and new audiences for high-quality Canadian programming and the exposure of Canadian talent — especially for those types of programming (eg. youth programming) for which the CBC has not to this point succeeded in creating a wide audience on its own radio networks. Such programming could utilize the CBC's production and performing skills and resources, and would be specifically designed for syndication to the private sector. Syndication would thus become, in effect, an alternative form of program distribution. The rate structure for such syndication activity would be designed on a cost-recovery basis, and would be intended to maximize the income which would flow through to Canadian creative and performing talent. [CBC written response, January 1988, Question No. 4.]

The CBC said it had informally sounded out the private sector to determine its interest but the response was inconclusive. The Corporation added:

> It would not, however, be appropriate for the CBC to syndicate within Canada existing programming which is already broadcast on one or both of its own English domestic radio networks, ... Syndication of this latter type would represent a form of self-competition; it would constitute an unwarranted duplication of services, and the audiences for such programs would simply be fragmented. [CBC written response, January 1988, Question 4.]

This would be a major limitation on syndication.

The idea of exposing more people to CBC programs is appealing at first glance. It is, however, unclear whether there is a market among Canadian private broadcasters for CBC programs produced for syndication, or whether they are prepared to pay reasonable licence fees. The idea of syndication may be worth exploring further. The Committee cautions, however, that syndication should not be pursued if it will reduce CBC audiences or cost the Corporation money. There may be more scope for the idea of co-production with the private sector of specially-commissioned productions in special areas such as youth programming.

Recommendation 4

> The CBC should continue investigating the possibility of supplying a radio syndication service in Canada, but should not undertake such a project at the expense of existing CBC audiences or budgets.

2.3.3 Role of the CBC in Music and the Arts

The CBC, like other broadcasters, makes extensive use of recorded music in its programming schedule, particularly in the stereo services. While music accounts for only a limited portion of the programming schedules of the French and English mono services, it accounts for substantially more than half of the stereo service schedules.

As indicated in subsection 2.1 above, musical selections qualify as Canadian if they are performed by Canadians, even if neither the lyrics nor the instrumental composition are by Canadians. The Committee believes strongly, however, that the CBC has a special role to play not only in encouraging the development of Canadian musical performers but also in composition. It can be no more acceptable as a cultural policy for Canada that all the music performed be composed by non-Canadians than it would be if all the plays in our theatres were by foreign playwrights, or all the films and television programs made were based on non-Canadian scripts.

The proportion of Canadian music on CBC AM stations is often not much greater than the 30 percent required by the CRTC. In fact, there is evidence that in the peak listening times for radio the CBC is sometimes under the 30 percent requirement. This is unacceptable.

The CBC has a clear responsibility to develop Canadian musical talent, and give Canadians access to it. It is extremely unlikely that listeners would object; many would wholeheartedly approve. As a public broadcaster, the CBC should be setting an example. The Committee cannot see why at least half of the CBC's popular music in all periods of the day should not qualify under Canadian content rules. Moreover, with its regional production centres, the CBC has the ability to assist and promote regional talent and performers through network exposure and inter-regional exchange.

There are more difficulties in classical music and certain other genres such as jazz and folk owing to a dearth of Canadian recordings. But the CBC itself has attempted to offset this by recording concerts and making its own tapes and records.

Representatives of the music and recording industries told the Committee of the importance of CBC radio, especially the stereo services, and the problems encountered. Some said the CBC is not fulfilling its mandate. The Canadian League of Composers held that the CBC is forsaking serious contemporary and classical Canadian performers and composers. Witnesses said Canadian composers encounter difficulties in getting their music recorded and played. They stressed the obligation of the CBC to commission and promote contemporary serious music.

Certainly, more is expected of the CBC than of private broadcasters in Canadian music. The CBC should be exceeding the minimum Canadian content requirements for all types of music. The Committee feels that there is scope for increased cooperation between the CBC and the organizations that support Canadian record production, MusicAction and FACTOR/CTL, as well as the sound recording industry itself. On the French side, the CBC appears to have done better, and has worked closely with groups such as the Association du Disque et de l'Industrie des Spectacles du Québec (ADISQ). We hope the CRTC will not have to prod the CBC again on this. While the current policy of budgetary restraint may well limit the number of new works that can be commissioned, lack of funds cannot always be an excuse. Additional funds may be part of the solution, but first CBC programmers must make a commitment to use music by Canadian composers and music performed by Canadians.

Although music is the most discussed issue, other areas of performing arts programming are also important. The CBC is an electronic window for the kinds of activity supported by the Canada Council, provincial arts funding agencies, and arts-supporting bodies. The report of the Task Force on the National Arts Centre emphasized the need for dissemination of some of the performing arts programming staged at the N.A.C.: "Television, radio, film, video and sound recordings have provided a new dimension to the audience/artist relationship; together they constitute electronic touring".

[Canada, Task Force on the National Arts Centre, *Accent on Access, Report*, Ottawa, 1986, p. 16.] Groups and individuals whose artistic endeavours are publicly supported need opportunities to reach a national audience and the public deserves an opportunity to hear them. CBC has a special responsibility here.

CBC radio broadcasts a certain amount of drama in both French and English, but it is a small part of the schedule. Radio drama can be extremely effective; compared with television the costs of production are minimal and it provides actors and playwrights with experience and exposure.

Recommendation 5

> CBC radio stations and networks should be required by the CRTC to meet higher Canadian content requirements than private stations in all music categories, throughout the broadcast day. The CBC should also assist and promote regional talent and performers through its production centres in all regions.

Recommendation 6

> The CBC should pursue a more active and integrated policy of support for both Canadian musical composition and performance, encompassing both popular and serious music. The CBC should work closely with Canadian composers, performers, recording companies and support agencies to develop Canadian music.

Recommendation 7

> The CBC should seek to strengthen its role in broadcasting radio drama and other performing arts programming, as well as its news coverage of Canadian arts activity. In its programming CBC should better reflect and complement the support provided through other federal and provincial cultural agencies.

2.3.4 Improved News Coverage in Communities Without a CBC Station

CBC radio must be relevant to the needs of listeners, and this means localized service which not only attracts listeners but is also important to providing a balanced service and meeting regional needs. The CBC

English-language service has proposed to enhance its local coverage in areas not currently served by implementing a "storefront" strategy. This is based on the Radio Development Project's recommendation to create a CBC-radio "local presence" by establishing "storefront bureaus" in areas with populations over 100,000. These would serve not only large urban areas with no local CBC programming at present, (such as London and Victoria) but also large areas or populations outside the areas of the main regional CBC production centres.

The CBC has devised a number of storefront models, with staff sizes ranging from one to nine, depending on local needs and conditions and the availability of resources. The smaller storefronts would merely feed material into the main regional station; the larger ones would be able to produce newscasts and originate some local programming of their own. The CBC explained to the Committee:

> The purpose of a storefront radio bureau is twofold: to originate programming of interest and relevance to an identifiable area within a CBC region, and to contribute programming which will better reflect that area in regional and national programming. The storefront bureau's production for its own area generally consists of information programming — news, information and current affairs — concentrated primarily in the weekday morning period. The storefront bureau also functions as a sub-regional news bureau, feeding into the regional and national newsrooms, as well as providing support and input for other regional and national programs, particularly in news and current affairs. The storefront bureau's community location increases the CBC's visibility and accessibility to area residents, thereby enhancing interaction and feedback. The sub-regional services which the storefront bureau provides are not only valuable in themselves, but also make the entire public radio service more attractive and meaningful to the people of the area. [CBC, written response, January 1988, Question 13.]

The CBC has identified 19 areas in English-speaking Canada where it believes the storefront strategy would be warranted. These were selected on the basis of weighted criteria such as distinctive social and geographical features, population, and public expectations. Capital costs have been estimated to be about $5.4 million and production costs roughly $7.6 million over the first five years.

At present, CBC operates two storefront production bureaus, one in La Ronge, Saskatchewan, the other in Thompson, Manitoba. In October, 1987, the CBC announced the "British Columbia Radio Improvement Plan", including storefronts, to improve and reassign CBC radio services throughout British Columbia. Applications to implement the plan are before the CRTC. The Plan has generated controversy, particularly in proposing to reduce the services staff at the Prince Rupert station.

The CBC told the Committee:

> Initially, the storefront concept was seen as an incremental activity, and it remains a high priority for implementation, as additional funds become available. In the absence of such additional funds, it may be possible to open some new storefront bureaus through internal redirection, thereby distributing available resources more equitably and effectively, as is the case with the current proposals for British Columbia. During these times of extreme financial pressure on the Corporation, the storefront concept has had to be examined as a potential means of achieving necessary economies, by downsizing some existing locations to storefront size, but not redirecting all of the resulting capital and operating savings to the creation of new storefront locations elsewhere. Up to this point, it has been possible to reject this option, and retain the original intention of the storefront concept as a way to extend English Radio's journalistic presence and coverage to currently underserved areas where it is most needed, wanted and deserved. [CBC written response, January 1988, Question 13.]

The Committee endorses the storefront strategy but is opposed to its development at the expense of local and regional programming now provided on existing CBC stations. We have heard concern that smaller stations will be phased out in favour of storefront bureaus.

The storefront strategy has been developed and applied only on the English side of CBC radio. When asked if the French radio services of the CBC were considering such a strategy, Mr. Jean Blais, Vice-President of the French radio networks, answered that this type of service is not being used "...because we do not yet have those means", and that "presently, the contribution of our 14 regional stations is minimal and for the time being there is no way that we can do more." [Minutes, 62:102.]

The Committee shares the opinion of the Cartel intersyndical des employés de Radio-Canada that the CBC should increase the contributions from the regions of Quebec on the French mono radio network, and that, as a second priority, contributions from other regions of Canada also be increased. In this regard, the Committee hopes that the French mono network, in particular, will give careful consideration to a policy of regional or local storefront operations or bureaus to enhance coverage of news and current affairs. The need for such bureaus is obviously greater in the regions of the province of Quebec, but we would hope that a similar policy would be implemented eventually outside Quebec in centres where there is a substantial French-speaking population.

Recommendation 8

> Funds for CBC radio should be sufficient to allow it to proceed with its proposed storefront strategy, but storefront bureaus should not be used to replace existing CBC radio stations.

2.3.5 Other Issues

The Committee heard about numerous other CBC radio issues. The cancellation of *Our Native Land* on CBC English radio continues to be criticized; it is not clear that other programming has replaced it. Children's programming is virtually absent from CBC radio.

As a public broadcaster providing the only national radio networks, CBC radio will always be under scrutiny. We applaud its successes and achievements, of which there are many. Nevertheless, in important ways that we have described here, CBC radio should be doing more and performing better.

2.4 Public Radio: Provincial Services

The public sector in broadcasting involves not only the CBC, but also provincial educational broadcasters. This is apparent particularly in television, where provincial broadcasters are playing an increasingly important role. Perhaps because provincial broadcasting has really developed only in the past 15 years, there is virtually no provincial public radio in Canada.

Provincial broadcasting accounted for two of Canada's earliest stations, Manitoba's CKY in Winnipeg, licensed in 1923, and CKUA Edmonton, originally licensed to the University of Alberta, which has been broadcasting since 1927. Today, however, the provinces are more interested in educational television than in radio. The only provincial radio stations licensed to a provincial educational authority are the pioneering CKUA in Edmonton, now part of ACCESS Alberta, with 15 rebroadcast locations; CIXX-FM in London, which is associated with Fanshawe College; and CJRT-FM Toronto, which was originally associated with Ryerson Polytechnical Institute. The CJRT-FM signal is distributed by satellite throughout Ontario.

The principles and recommendations applicable to provincial television broadcasting, which are discussed in Section 3.4, are equally relevant to provincial radio broadcasting. There would seem to be scope for increased use of radio by provincial educational authorities, perhaps in conjunction with community radio stations.

2.5 Private Radio

The policy issues in radio broadcasting in the private sector are best understood in the light of the financial state of the industry and its current programming practices. We will start with these factors and then examine the recommendations of the Task Force and other issues that were brought to our attention.

2.5.1 Recent Trends in the Industry

The recent history of private commercial radio broadcasting has been characterized by the rapid rise in the number of FM stations, which provide a sound quality superior to that of AM radio. In 1987 there were 143 private FM stations, a dramatic increase from the 76 stations 10 years earlier. While there were still twice as many private AM as FM stations in 1987 — 309 compared with 143 — their number was down from 334 in 1977.

Differentiating between the English-language and French-language markets, private English FM increased its audience share from 30 percent in 1981 to 40 percent in 1987, while the private French FM increase was more marked, from 26 percent in 1981 to 45 percent in 1987.

The FM share of private radio revenues (which come almost entirely from advertising) is not as great as the listening share, since the CRTC has imposed more advertising restraints on FM than AM. Still the FM share of revenues has increased from less than 10 percent in 1977 to 31 percent in 1986. In 1986 the total advertising revenue of private radio was $610.0 million (of total revenues of $624.5 million), of which $419.5 million went to AM stations and $190.5 million to FM stations. Of the total $624.5 million revenue, private radio stations spent 31 percent, or $194.2 million, on programming.

As Table 2.6 shows, the division of total revenues between English and French stations in 1986 was: English $505.9 million (81 percent) and French $118.6 million (19 percent). By comparison, BBM data for 1986 indicate that English stations account for 76 percent of all listening to private stations, while French stations account for 24 percent. In FM radio the division of revenues (totalling $193.3 million) was English $147.8 million (76 percent) and French $45.5 million (24 percent). In AM radio, the division of total revenues of $431.2 million was English $358.1 million (83 percent) and French $73.1 million (17 percent).

Table 2.6 Private Radio Station Revenue, ($ millions) 1986[1]

	AM & FM	AM	FM
English stations	505.9	358.1	147.8
French stations	118.6	73.1	45.5
All Stations	624.5	431.2	193.3

[1] Including revenues from network operations.
Source: CRTC.

Although there are still many large and profitable AM stations in Canada, the least profitable and money-losing stations are mainly AM stations in small and mid-sized markets. Except for these stations, private commercial radio remains a profitable business. Table 2.7 shows the profitability of private radio stations.

The share of advertising dollars going to radio rather than other media has declined slightly in recent years, from 10.9 percent in 1971, 10.8 percent in 1976, 10.1 percent in 1981, to an estimated nine percent in 1986 and 1987. [Maclean-Hunter Research Bureau, *A Report on Advertising Revenues in Canada*, December 1987, p. 7.] It must be noted, however, that while radio's share of advertising revenues may have been declining slightly, there was still real growth in revenues, with advertising revenues in constant dollars increasing at a compound annual rate of 5.1 percent between 1974 and 1979 and one percent from 1979 to 1986.

Radio is heavily dependent on local advertising — receiving about 75 percent of its revenue locally and only 25 per cent from national advertising. Within the broadcasting industry, there were only slight declines in radio's share of the advertising dollar compared with television's in the five-year period 1982-87, according to Maclean-Hunter figures, which use estimates for 1987 revenue. Radio declined from 66 percent of local advertising revenue in broadcasting to 65 percent in 1987. During the same period television ad revenue increased to 35 percent from 34 percent. In 1987 radio received 15 percent of national advertising in broadcasting, down from 17 per cent in 1982, while television was up correspondingly.

One of the concerns of the radio industry is the risk of losing some of the vital flow of local advertising revenue to advertising services on cable television. The 1986 CRTC decision to permit cable television systems to sell advertising for the first time is seen as more of a threat to radio than to television, since cable is drawing on the same pool of revenue as radio. The Commission's current policy of permitting cable advertising on non-programming or alpha-numeric channels only restricts cable to carrying advertisements that use still pictures and text rather than video. The Committee has already stated in its Sixth Report its opposition to allowing cable systems to compete directly for advertising with licensed radio and television stations. We return to this issue below.

The chairman of the Radio Board of the Canadian Association of Broadcasters, Elmer Hildebrand, appearing before the Committee, described the 1980s as "very trying years for radio". He said:

> So far the decade has been characterized by reduced revenue growth, accelerated growth of programming costs, and reduced profit margins. The industry profit margin is currently below five percent. Profit margins in Newfoundland, Prince Edward Island, and Saskatchewan are in a negative position. (*Minutes*, 69:10)

The shift from AM to FM tuning had caused "turmoil within the industry".

However, according to economic data provided to the Committee by the CRTC, there have been some positive recent developments. Between 1985 and 1986 revenue from advertising increased by 9.7 percent while before tax profits increased by 65.6 percent in the same period. But the average profit margin remained low at 4.1 percent in 1986, an increase from 2.7 percent in the previous year.

As the Task Force remarked, "To a quite remarkable degree radio is an industry of winners and losers". [*Report*, p. 398.] Table 2.7 compares overall profitability to the different performances of those with profits and those with losses over the years 1979 through 1986. Smaller stations were hit hardest. During the period French FM stations did exceptionally well, while French AM stations did very poorly, especially during the latter part of the period. Until 1984, English AM stations actually did better, on average, than English FM stations.

Table 2.7 Profitability of Private Radio Stations, 1979-1986[1]

	1979	1980	1981	1982	1983	1984	1985	1986
Number of reporting units[1]	361	374	384	396	394	437	446	453
Total revenue ($ millions)	355.4	396.3	445.8	475.7	489.7	559.3	580.4	624.5
Profit before tax ($ millions)	44.8	48.0	51.5	36.7	19.7	23.9	15.4	25.5
Profit as percent of revenue	12.6	12.1	11.6	7.7	4.0	4.3	2.7	4.1
Number of units showing losses	111	137	148	185	173	176	193	188
Total revenue of units with losses ($ millions)	52.2	79.3	102.3	159.9	150.5	167.1	192.0	192.5
Total losses of units with losses ($ millions)	(13.9)	(15.5)	(23.0)	(41.6)	(38.9)	(45.1)	(47.3)	(50.9)
Number of units showing profits	250	237	236	211	221	261	253	265
Total revenue of units with profits ($ millions)	303.2	317.0	343.5	315.8	339.2	392.2	388.4	432
Total profit of units with profits ($ millions)	58.6	63.6	74.5	78.2	58.6	69.0	62.7	76.4

[1] Generally, a declaring unit is described as a radio station in operation. However, some units include two or three stations, filing combined financial reports. Each network constitutes a different reporting unit; in 1986, the 453 reporting units account for 457 operating stations and seven networks.

Source: CRTC.

The Committee acknowledges that private radio is going through a difficult period of transition to which policy and regulation should be responsive. Notwithstanding these recent changes, we are impressed by audience loyalty to radio broadcasting. We believe private radio will continue to be a profitable enterprise, able to fulfil public responsibilities in return for the use of publicly-owned radio frequencies.

2.5.2 Programming

Except for music, programming on private radio stations is more local in origin than programming on television or on CBC radio. Local news, weather and sports, and discussion of local issues help give private radio stations strong appeal in their home communities. Public service announcements, which amount to free commercials for non-profit causes and services, are a useful contribution made by local stations, constituting a type of community billboard.

Partly because of regulatory history, the use of network and syndicated material by English-language private radio is limited — a point to which we will return in the recommendations below. French-language private radio is a different story, being dominated by two major networks, Télémedia and Radiomutuel, with a third created recently by the purchase of nine stations by COGECO Inc. Regional groupings exist alongside the networks. Networks offer their members access to news, public affairs, sports and other specialty programs they could not produce at the same level of quality and would not otherwise be able to obtain in the French language.

2.5.3 Review of Task Force Proposals

The Committee finds itself in broad agreement with the Task Force conclusion that "the CRTC's general approach and objectives relating to private radio broadcasting make sense". However, we will propose some changes to take account of developments since the Task Force reported and to reflect points made at our hearings and deliberations. Evidence given at our hearings makes it clear that radio broadcasters themselves are in broad agreement with these proposals, or have no strenuous objections, although there are exceptions in particular cases. The Committee recommends elsewhere in this report that CRTC resources be increased to provide for the stronger research capability that will be essential to implement the policies we are proposing.

The essential goal is to maintain a distinctive, varied and Canadian private radio broadcasting system. Therefore, we would leave unchanged the first recommendation of the Task Force on private radio.

Recommendation 9

> Continued federal regulation of radio is necessary to ensure diversity, and to promote the use of Canadian creative and journalistic resources. Regulatory tools should be flexible and — through conditions of licence — appropriate to the resources and operating environment of each licensed radio station and network.

In reviewing the position of the Task Force that the present differentiation in regulation between AM and FM should be retained, the Committee considered whether the advent of AM stereo might reverse the steady deterioration of the position of AM stations. Expert witnesses indicated, however, that it would be five to 10 years before any widespread use of AM stero could be expected. It is a matter of radio stations adopting stereo transmission and of radio manufacturers promoting the sale of stereo receivers. There is no need for CRTC permission to broadcast in stereo, which is simply an improvement of transmission on existing frequency allocations.

The Task Force recommended that a "wait and see" stance be adopted on the issue of maintaining separate regulatory approaches to AM and FM radio. The Committee agrees that this remains an appropriate approach. However, we consider it necessary now to go beyond this position and anticipate how the CRTC ought to approach the elimination of the AM/FM distinction, should the Commission decide in the future that it is appropriate to regulate both AM and FM stations on the same basis.

Recommendation 10

> The present differentiation between AM and FM should be maintained, with close monitoring of the evolution of both services. The status of AM radio in particular should be reviewed periodically. If in the future the CRTC moves to a common policy for AM and FM, there should be no reduction in the diversity of radio programming.

The Committee shares the concern of the Task Force that musical classification and format requirements must not become too rigid and detailed. The broadcaster must have some leaway to adapt to changing tastes. The issue is a difficult one because competition often tends not to produce variety but to draw radio stations in the same locality into matching one another in attempting to provide the most popular type of programming. Thus, if the musical categories to which the stations belong are not appreciably different from one another, the stations' natural tendency to attract the largest audience will tend to overcome the policy objective of providing listeners with as great a variety of choice as possible.

In adopting the four broad musical groups, the CRTC has already taken a step toward flexibility. It must remain alert to both the need to move with the times as musical styles and tastes evolve, and the need to make effective provision for diversity.

Recommendation 11

> The practice of licensing FM stations to broadcast music mainly from only one of a number of musical groups should be maintained for cultural diversity, since it gives FM stations a distinctive sound from one another and from AM stations. But the practice should be flexible enough to reflect the evolution of music and listeners' tastes.

The system of formats established by the CRTC — gramophone, rolling, mosaic, and foreground — is also a useful way of challenging FM stations to be enterprising and to present some material that is more than background. If some requirement is not made for foreground programming, broadcasters might be irresistibly tempted to provide almost nothing but the cheapest form of programming — recorded music. Broadcasters themselves are not averse to being saved from this temptation, just so long as all are saved together and there are no evaders. It is worth noting that there is no "spoken word" format requirement as the Task Force thought, but that spoken word content is needed in many types of foreground programming.

After reviewing the matter, we agree that format requirements should not be too detailed or rigid.

Recommendation 12

> The CRTC should drop blanket foreground-format requirements on FM radio, but continue to require foreground programming through conditions of licence tailored to local circumstances. A reasonable share of available resources and air time, consistent with maintaining high quality, should be committed by each FM broadcaster to foreground programming.

The Task Force also made a general recommendation, applying to both AM and FM stations, to the effect that CRTC regulation and supervision should take more account of market conditions and problems in each broadcaster's community. The Committee concurs.

Recommendation 13

> The CRTC should use conditions of licence to allow broadcasters to offer a service better tailored to their communities, taking into consideration the size of the station, the characteristics of the audience, and the kind of radio services provided.

The use of network and syndicated material has been suggested as a means of assisting the smaller radio stations to face the financial problems of program production mentioned above and to enrich the programming of all stations. Networking has been one of the most sensitive issues in broadcasting since the beginning of public control, because Canada risked losing its broadcasting system to foreign programming if Canadian stations became affiliated to American networks. Later, it was felt that private Canadian networks would lead to wasteful duplication of the national networks established by the CBC and thereby undermine the system.

The CRTC, from which a licence is required for networking, has taken a more positive attitude in recent years and has also allowed greater use of syndicated material. As noted above, French-language broadcasters make extensive use of networks to enrich their programming and to gain access to programs in French. While insisting on the private radio station's primary responsibility to serve local audiences, the CRTC regards network programming as a means of increasing the quality and range of programs available to Canadians, decreasing programming costs and improving station viability.

There remains, of course, the possibility that, in the absence of effective and properly enforced CRTC policies related to the use of syndicated programming and the operation of private radio networks, a substantial increase in the use of foreign (mainly American) radio programming could occur. Such always has the commercial advantage of being available very cheaply. Nevertheless, program syndication and networking also present an opportunity to strengthen Canadian radio broadcasting through providing better quality domestic programming. To a significant degree, this potential is linked to the availability through Telesat Canada of a national satellite delivery service providing high quality sound transmission.

The Committee believes that it is both desirable and important to expand the use of syndicated and network programming. However, it is essential that the CRTC establish policies that will strengthen, rather than weaken, the Canadian programming available to listeners. We note that the CRTC initiated a review of its networking and syndication policies in 1986, and is expected to announce a new policy in the near future.

Recommendation 14

> Networks should be encouraged as long as they are Canadian networks. Restrictions will be required to protect Canadian content in network programming, to ensure that network programs do not encroach excessively on local programming, and to ensure that radio networks operate in a way consistent with achieving the objectives proposed for the broadcasting system. CRTC policies affecting syndicated programming should also be designed both to encourage the development and use of Canadian-originated material and to prevent excessive reliance on syndicated foreign programming.

Like the Task Force, the Committee believes the Canadian content requirement for music on AM stations should be retained at 30 percent, and that the differing percentages for the various music groups on FM should be retained. Indeed, Committee members would like to increase Canadian content requirements but recognize that it would be necessary first to increase the production of Canadian records.

Recommendation 15

> The existing Canadian content requirements for non-CBC radio broadcasters should at least be maintained, including the 30 per cent quota for AM licensees. The requirement that Canadian content be evenly spaced during the programming day rather than tucked away in low-listening periods should be firmly applied.

The production of sound recordings in Canada is critical to the fulfilment of Canadian content requirements. In turn, the playing of Canadian records on radio is critical to their success in the marketplace. The interdependence of the recording and radio industries is reflected in two organizations created by broadcasters to stimulate Canadian record production. On the English-language side, a group of broadcasters, in co-operation with Canadian recording companies, created the Foundation to Assist Canadian Talent on Records (FACTOR) in 1982 and in 1985 it joined forces with the Canadian Talent Library (CTL) to form FACTOR/CTL. Their counterpart organization, formed shortly afterward by French-language broacasters, is MusicAction. In addition to being supported by the broadcasters, FACTOR/CTL and MusicAction are aided by the government's Sound Recording Development Program. From an annual total of $5 million, the program provides $3.7 million to FACTOR/CTL and MusicAction.

The Committee agrees with the Task Force recommendation that the CRTC should more systematically require private radio broadcasters to support FACTOR/CTL and MusicAction as a condition of licence. In the last year, broadcasters contributed $700,000 to FACTOR/CTL and $269,000 to MusicAction. However, we believe that two related issues must be considered at the same time. First, contributions to the record-production agencies should not relieve the broadcaster of the obligation to promote local performing talent. Second, FACTOR/CTL and MusicAction cannot be expected to support production of non-commercial recordings of classical music or specialty music such as jazz or ethnic music.

The fear was expressed at Committee hearings that broadcasters would be less inclined to support local talent once they had met their requirement to contribute to the recording industry through FACTOR/CTL or MusicAction. Committee members feel it is extremely important to ensure that this does not occur.

The issue of additional support for classical and other specialty record production is more a matter for cultural policy. The Committee agrees that the organizations supported directly by the broadcasters will inevitably focus on supporting mainstream records that most broadcasters can play in order to fulfil their Canadian content requirements in mainstream types of music. We believe, however, that there is a need for a broadening of government sound recording policy to include greater provision for minority types of music, rather than relying entirely on CBC record production in these categories. Just as assistance to poets and authors is complemented by assistance to publishers, so too should aid to musicians and composers be complemented by aid to the recording of their works. This would benefit broadcasting by encouraging the playing of Canadian records in minority types of music. It could permit Canadian content quotas to be raised as production of records increased in currently underserved categories.

The Committee notes that in a written response the CRTC expressed its agreement that minority interest music requires more support than it currently receives, noting the link between the limited supply of Canadian recordings in minority interest categories and the Commission's application of lower Canadian content requirements. The CRTC did not believe it would be fair to expect private broadcasters to play the major role in developing speciality music, a view which the Committee shares.

Recommendation 16

> Public policy should continue to support the work of FACTOR/CTL and MusicAction, which should continue to be controlled by boards representing the radio and sound recording industries. The CRTC should use conditions of licence to require more adequate funding of these organizations, in line with the individual stations' ability to pay. At the same time, the CRTC should balance this requirement with the continuing obligation of stations to devote resources to the presentation of local talent. The Government should implement measures to expand sound recording policy to include greater assistance to minority types of music.

At time of writing, the CRTC had still to review the lowering of the French-language quota for vocal music on francophone radio stations from 65 percent to 55 percent for two years, ending March 1988. The impact on the recording industry, the creative and performing artists, and the listening public will be assessed. The Task Force recommendation to restore the 65 percent quota will also be before the Commission.

Commenting on the Task Force recommendation, the Association canadienne de la radio et de la télévision de langue française (ACRTF) stated:

> Recommendations regarding quotas as arbitary as these should not even be considered by the members of this Parliamentary Committee and existing regulatory measures which separate French-language broadcasters from English-language broadcasters and which impose stricter and more costly requirements on the former should be abolished. [ACRTF Submission to the Standing Committee, p.5 (translation).]

The Association du disque et de l'industrie des spectacles du Québec (ADISQ), on the other hand, held that:

> The CRTC must reintroduce the requirement whereby 65 percent of the musical selections broadcast by French-language radio stations must be in French. This standard should apply without exception to AM and FM stations alike.
>
> The minimum 65 percent standard should be incorporated into the Radio Regulations. Radio stations would thus be required by regulation, rather than by their conditions of licence, to comply without exception to this standard.
>
> Lastly, the Regulations should specify clearly that French-language music selections must be scheduled in a reasonable manner throughout the broadcast day. It should be noted that the Radio Regulations, 1986 already contain such a requirement for all AM stations in respect of the 30 percent Canadian content quota. [ADISQ Submission to the Standing Committee, p. 8 (translation).]

The Committee is of the opinion that the CRTC should remain flexible in its approach until it determines whether the support programs and other factors have enabled the recording industry to produce sufficient records in all categories of music to support the 65 percent rule. It would be premature to incorporate the minimum requirement into the Radio Regulations. The CRTC should, instead, immediately establish a requirement to schedule French vocal selections evenly throughout the broadcast day and should ensure compliance. Further, the Commission should reintroduce the 65 percent requirement as soon as possible.

Recommendation 17

> As soon as possible, the CRTC should return to the 65 percent French vocal music requirement for French-language radio

stations. In the meantime, the Commission should require stations to apply the interim 55 percent requirement in all periods of the broadcast day, including peak listening time.

Taking into account the financial difficulties of some groups of radio stations, the Task Force suggested an easing of advertising restrictions. As noted earlier, the CRTC has removed restrictions on advertising on AM radio. Those favouring the move believe that competition among stations for listeners, and the reluctance of sponsors to having their messages lost amid a clutter of commercials, will serve to control excessive advertising. The CRTC will be addressing such issues at public hearings to be held after the elimination of the limit has been in effect for two years; that is, in the fall of 1988. Rather than make recommendations at this time, the Committee believes it most appropriate to let the review take its course. Particular attention should be paid to the impact of the change on the financially weaker stations it was intended to assist.

In the case of FM stations, the advertising incentive to produce more foreground programming was made conditional on the use of the resulting revenues to support Canadian musical talent or increase the use of Canadian syndicated or networked programs. The CRTC intends to check on whether licensees are fulfilling these commitments at the time of licence renewal. Here again, the Committee supports the intent of the Commission and considers it inappropriate to comment further until the policy has been in effect long enough for its impact to be examined.

As we noted above, many private radio broadcasters are concerned about the incursions that could be made into local advertising — on which radio is particularly dependent — by advertising permitted by the CRTC on non-programming services on cable television. We believe the CRTC should monitor developments to see whether such fears are justified and then hold a public review of this policy. This is not an arbitrary matter of favouring radio stations over cable licensees. While revenues of radio stations are directly linked to supporting local programming and stimulating Canadian talent, the advertising revenues of cable are not. It was for this reason that the Committee recommended in its sixth report that cable licensees not be allowed to compete directly for advertising with licensed radio or television broadcasters.

Recommendation 18

> The CRTC should monitor the impact on radio station advertising revenue of cable advertising or home shopping services permitted by the Commission as non-programming services. It should make provision for a public review of this policy after it has been in place long enough for its impact to be examined.

Although only a fraction of cable subscribers use cable for radio reception, the Committee welcomes the CRTC decision to require the carriage of local AM, as well as FM, stations on cable, as recommended by the Task Force. The Committee also agrees with the Task Force that cable should not be allowed to import American FM stations and subcarriers, except public broadcasters.

During its hearings, the Committee raised the issue of cable carriage of radio with CRTC Chairman André Bureau. He said "the audience that comes from the cable system ... is so minimal that it is not possible even to measure it". [Minutes, 72:27.] The policy change which we propose would therefore not be disruptive at this time, but it could be important to the future development of diverse and varied Canadian radio broadcasting services. To the extent that Canada's own broadcasting services provide the "varied and comprehensive" programming called for in the *Broadcasting Act*, the importation of non-Canadian stations will not be necessary.

Canadian broadcasters have pointed out to us that it is unfair to allow cable to bring in American stations, since they are not subject to the Canadian content and format requirements imposed on Canadian stations. Apparently one of the main reasons for importing American FM radio services is that they are permitted to carry continuous music — "elevator music", as it is sometimes called — while the Canadian stations are subject to the foreground format rules, which involve a certain amount of spoken-word programming. The Committee's recommendation that blanket format requirements be dropped in favour of conditions of licence tailored to local circumstances should serve to reduce this problem. We note that the Canadian Association of Broadcasters favours allowing cable systems to carry distant Canadian radio signals to the extent that they add diversity to the local market and that there is already a wide variety of programming available from Canadian broadcasters.

Recommendation 19

> With the exception of public broadcasters, the carriage of American radio stations on Canadian cable services should be prohibited. Carriage of distant Canadian radio stations should be permitted to the extent that they complement the programming available from local broadcasters.

For the CRTC to be able to check on whether stations are living up to regulations and conditions of licence, broadcasters are required to keep logs of everything they put on the air. The Commission no longer requires logs to be sent to it, but stations must have them on hand for spot checking.

The Committee found that it is widely thought that much of the information logged is not necessary to monitor whether stations are in compliance with CRTC requirements. It therefore agrees with the Task Force that logging requirements should be simplified.

Recommendation 20

> The CRTC should simplify the form of logs it requires radio stations to keep, concentrating on the information required to ensure compliance with the regulations and with licence conditions.

The Committee has been pleased to note that the CRTC has been taking a tougher attitude toward stations that fail to live up to their commitments, mainly by renewing licences for only 12 or 18 months in those cases. In its Sixth Report, the Committee recommended that the CRTC also be empowered to levy fines on defaulters.

The Committee is aware that the approach we propose may require some additional expenditure by the CRTC, particularly in making greater use of tailor-made conditions of licence. This flexibility is desirable both to permit the Commission to be lenient in cases of financial hardship and to ensure that the many highly profitable radio stations make a contribution commensurate with their capabilities in return for their use of a scarce public resource, the airwaves. The CRTC's additional financial requirements will not be great and should be acceptable in view of the fact that the Commission generates substantially more revenue than it spends.

2.6 Community Radio

2.6.1 Introduction

The Task Force saw community broadcasting as a way in which our system had developed a capacity to meet needs which were not, and could not be, adequately addressed by the public and private elements of the system. For Task Force members, community broadcasting was evolving into a "forum of community expression and a primary means of access to the broadcasting system for ethnic cultural and minority groups". [*Report*, p. 501.] The Task Force recommended that the broadcasting system should be recognized as comprising not-for-profit community elements as well as the "public and private elements" already acknowledged in the *Broadcasting Act*. [Recommendation No. 19.1, *Report*, p. 502.]

In our Sixth Report we recommended that the *Broadcasting Act* expressly recognize the community element of the system, and that it provide a definition of this form of broadcasting along with appropriate objectives and principles for its operation. [Recommendations 3 & 4, Sixth Report, 36:105.] Our conception of the community sector is that it is a public service component of the system and not a business; and that its essential functions are to meet local needs which are not met by either public or private broadcasters. Community broadcasting should operate on a not-for-profit basis and should in its programming perform the role of providing access to Canadians who would not otherwise be adequately reflected in radio and television programming.

We agree with the Task Force that community broadcasting is instrumental in providing for unmet needs. However, we emphasize the diversity of services which community broadcasting offers. In some small communities it may be the only local service and provide a vehicle for social, economic, and cultural development within the community. In urban centres it may give a voice to aboriginal or multicultural groups and official language minorities, as well as providing its audience with local music, arts or public affairs programs which, for various reasons, are seldom produced in the mainstream media.

We think it important to emphasize this point, both in relation to the problem of defining the role of the community sector, and also as a warning against too narrow a definition. Certainly, community broadcasting can accommodate pressures which build up among those whom the mainstream does not serve adequately; and as a result community broadcasting may be closely linked to meeting the needs of minority groups. However, this does not eliminate the obligations of mainstream broadcasting towards these groups. While community broadcasting may be an important instrument for meeting the specific needs of minorities, it is not an alternative to reflecting minorities in mainstream broadcasting services.

In this Report we examine radio and television broadcasting separately. Accordingly, community radio stations are discussed in the following sections, and television programming in Chapter 3. However, one important issue is common to them both and should be mentioned here. Very little information is available about community broadcasting. Listening or viewing data are not collected on a regular or systematic basis. There is no reliable information about the expenditures which cable operators make for the community channel. There have been no thorough descriptive or evaluative studies of the community sector as a whole. This lack of information has affected our analysis and recommendations in this area.

As the Task Force points out, several types of community radio stations have been established in response to a variety of needs. About 100 stations throughout the North broadcast to native peoples in their own language. The Quebec government has actively encouraged the development of community broadcasting throughout Quebec, and there are now more than 20 stations operating in that province. Student radio exists on a number of campuses, serving as a training ground for students in communications. These stations also help involve the university in the community, and they may offer an alternative to conventional broadcasting which is much appreciated by the community. There are two non-student community stations outside Quebec, one in Vancouver and one in Kitchener. One of our witnesses, the Community Radio Society of Saskatoon, is trying to establish a station to replace the university station, which has discontinued operations.

In September, 1987 the Department of the Secretary of State announced a new federal government program to establish community radio stations in minority official-language communities. Plans are already underway for stations in French language communities in New Brunswick, Nova Scotia, Manitoba and Ontario.

A number of issues arise in connection with broadcasting to native communities which are unique to that area. For this reason we deal with some aspects of native community radio broadcasting in a separate section. [See Chapter 7.]

2.6.2 Public Funding of Community Stations

There are several programs through which the federal government provides funds to the community sector, including both special purpose programs and general programs which have broader applications. The Northern Native Broadcast Access Program (NNBAP), administered by the Secretary of State, was set up in 1983 to encourage the production of native-language radio and television programs. We have already referred to the Secretary of State program to establish radio stations in minority official-language communities, developed as part of the government's commitment to support English and French linguistic minority communities, in accordance with policies set out in the proposed official languages act.

The NNBAP, which was initially a five-year program, is now being funded on a permanent basis. It is dealt with in greater detail in Chapter 7 of this Report. The program directed towards official-language minorities is designed to provide $3.5 million in capital grants and $2.1 million in start-up funds for new radio stations over the next five years. Stations are expected to be able to operate without significant government help after that.

In addition, those who work in the community sector may have access to assistance through federal employment training or summer student programs operated by the Employment and Immigration Department. The effect of such support is to subsidize operating costs by covering part of a community station's payroll. The funding provided through employment programs is, of course, short term and is not especially designed to address the problems faced by the community sector. With this exception, the federal government is not involved at present in funding the operating cost of community radio stations. Instead, it provides start-up funding and support through NNBAP toward the costs of program production.

Unlike the federal government, the Quebec government does provide on-going operating support to community radio. Assistance takes the form of operating grants, and the provision of technical advice and expertise. In general, provincial government funding has accounted for about 20 percent of the total operating costs of community stations in Quebec, and now totals $1.3 million annually.

The Task Force thought it necessary to coordinate those government programs which affect community broadcasting. It recommended that the federal government establish a "focal point" in the Department of Communications to do this. As part of the same recommendation, the Task Force proposed that federal and provincial governments should consult on how best to establish a more adequate financial base for community broadcasting. [Recommendation No. 19.8, *Report*, p. 505.]

With respect to government funding for the community sector, we think it important to note that communities of different sizes differ substantially in their ability to support a radio station, and in the expenses they incur. One of our witnesses, the Vancouver Co-operative Radio, has existed for 12 years without any federal or provincial funding. The City of Vancouver contributes three percent of its budget; but the bulk of the Co-op's revenue comes from membership fees and advertising. The Co-op has four-and-one-half staff positions, 300 regular volunteers and an annual operating budget of about $190,000.

Witnesses from the Association des radiodiffuseurs communautaires du Québec (ARCQ) pointed out that stations in cities could count on between 150 and 200 volunteers a week, but only perhaps 25 to 40 in less populated areas. Members of the Association employ between five and eight people; however, they feel that ideally a station should have 12 staff positions. Accordingly, they estimate the costs of running a station at between $250,000 and $300,000 per year. As a result the Association believes that its members need ongoing funding from both levels of government. We note, however, that applicants for the Secretary of State official-language minorities program expect to be self-financing in five years — a position which seems in contradiction to that taken by the ARCQ.

In the case of campus radio, such stations are largely funded through the university itself and are staffed almost wholly by volunteers. They provide valuable training and experience for students.

One of the suggestions made by ARCQ was that other sources of support, such as the consulting services made available to small businesses through the Federal Business Development Bank might be opened to community radio stations. Access to job training programs for people working in community stations was also seen as potentially important. Witnesses from ARCQ noted that some people trained by community radio stations have in fact gone on to work in public or private stations. The Committee sees some merit in this proposal that community broadcasters have greater access to programs of support which exist primarily for small business.

Overall, the Committee is not convinced that the legitimate financial needs of community stations are well understood. However, we appreciate that community radio is a relatively inexpensive way of responding to the broadcasting needs of Canadians, particularly by comparison with television. We also recognize that federal, provincial, territorial and local governments may all have a role to play in assisting the community sector, although the relative roles of each are not defined at present and may vary depending on the type of community station involved. Certainly this Committee agrees with the Task Force that there should be consultation among the federal, provincial and territorial governments on all issues related to the development of community broadcasting.

At present the Committee does not see a need to establish a focal point within the Department of Communications, as the Task Force recommended, for co-ordinating funding programs and policies for the community sector. In rejecting this proposal, however, we wish to be clear that this does not mean that such an initiative should not be taken at some time in the future. Rather, based on the testimony we believe there is no strong or united view being expressed that such a change is necessary; nor does the limited information now available provide a basis for supporting this proposal.

Recommendation 21

> At this time no action should be taken to establish a focal point in the Department of Communications for the co-ordination of funding, grants and programs related to community broadcasting. Consideration should, however, be given to providing community broadcasting with greater access to appropriate federal training and more general support programs, including those intended primarily for small business. Further study should be done on the appropriate level and nature of federal assistance to community radio, and discussions should take place with the provincial and territorial governments concerning the relative roles of each level of government.

2.6.3 Access to Advertising and Other Revenues

A significant portion of a station's budget may come from advertising. According to ARCQ advertising makes up from 35 percent to 50 percent of member stations' total revenues.

The important issue here is the affect that competition with the private sector may have on both community stations and private broadcasters. Our first concern is that community stations retain their character as a distinct local service and not become just another private broadcaster. We know from recent CRTC decisions that the pressure to disregard conditions of licence and promises of performance is great. The Commission has stated that it will "get tough" with stations who persistently disregard regulations. In 1987 it did in fact refuse to renew the licences of four community stations. We can only applaud the Commission's determination to enforce its policies in this area. We hope that it will continue to do so. In addition we do not want stations that receive public funds to compete directly with broadcasters whose only source of funding is advertising revenue. However, we know that in many cases stations can tap commercial revenue without harmful effect. We think the present CRTC advertising policy strikes an acceptable balance.

Recommendation 22

> The Committee supports the existing CRTC policy with respect to advertising on community radio. The Committee encourages the Commission in its efforts to enforce its overall policy for the development of community radio.

2.6.4 Access to Community Radio

The second recommendation of the Task Force affecting community radio was directed to the CRTC. It proposed that the licences of all community broadcasters should recognize the need of fair access for various ethnic, cultural, interest and opinion groups. [Recommendation 19.6, *Report*, p. 504.] We support this recommendation. Because our witnesses raised this issue principally in connection with television, we leave our discussion to that chapter.

2.7 Sound Recording and Syndicated Programming

2.7.1 Introduction

No thorough report on broadcasting in Canada can neglect the interdependent relationship between radio and the sound recording industry. With few exceptions, recorded music accounts for at least half of the programming aired on Canadian radio stations. Syndicated radio programming is also used to a degree. In both cases if a substantial amount of the material used on Canadian radio is to be Canadian, then there must be Canadian companies that are able to finance the production of such material and to promote and distribute it effectively.

Both the work done by the Task Force and the Committee's consultations make it clear that there are significant problems that inhibit the production of pre-recorded material for use on radio. These problems need to be addressed.

2.7.2 Canadian Sound Recordings

In the case of sound recordings there is an obvious and substantial gap between the financial strength of the Canadian-controlled private radio industry, with annual revenues in excess of $600 million, and the domestic sound recording companies, whose revenues are just over $60 million. Nevertheless, in the sound recording industry Canadian-controlled companies produce three quarters of the new Canadian records being generated, although they account for only 16 percent of the revenue.

The 30 percent Canadian content musical quota for AM radio, and the variable quota levels for FM, make radio stations dependent on the supply of Canadian recordings. Radio stations are concerned not just that there are enough Canadian recordings available to allow them to meet the quota, but that these records should be receiving effective promotion, good distribution in retail outlets, and enough exposure for the artists and songs through concerts, interviews, media coverage and reviews. In other words, the radio stations want the record companies to play their role in ensuring that Canadian performers, composers and songwriters whose work is being played on the radio are popular with the public. The successful development of Canadian music requires both strong broadcasters and a strong sound recording industry.

Generally, radio broadcasters have not opposed the Canadian content requirements established by the CRTC. In fact, most private broadcasters have been supportive; what really matters for radio stations is that the records they play, wherever they come from, fit their music format and are appreciated by their target audience.

When the Canadian content quota for radio was implemented in 1971 it was expected that a blossoming of Canadian recording and record sales would result. However, while there was a marked increase in the number of Canadian records being produced, this did not result in a proportionate increase in the sale of such recordings. At present, while most radio stations are required to play Canadian records 30 percent of the time, only 12 percent of record sales are of Canadian recordings. There are a number of reasons for this. First, there was a natural tendency on the part of the broadcasters to use a few well-established Canadian performers to meet a substantial part of their Canadian content requirement. Second, although there were direct support programs and tax incentives in place to support Canadian film and video production, and Canadian publishing, there was no such assistance available to the recording industry until the Sound Recording Development Program was established in 1986. Finally, the marketing campaigns undertaken on behalf of Canadian records were more limited than they should have been and reduced the availability of Canadian recordings in retail outlets.

In the period when a new artist's career could be launched by producing two or three successful "singles" before releasing an album, the production costs involved were relatively low. However, since the early 1970s increasing emphasis has been placed on producing albums, with a corresponding increase in costs. During the 1970s, a significant number of independent Canadian record companies did develop, largely as a result of the Canadian content requirement. Although their success in selling Canadian records did not necessarily reflect the level of Canadian content on radio, significant progress was made, with many individual recordings achieving remarkable sales.

The 1980s have, however, been a period of considerable difficulty for the record industry in Canada and worldwide. In constant dollars, the revenue earned from record sales in Canada dropped from $376 million in 1979 to $217 million in 1982 and revenues have been relatively flat since 1982. This decline in overall industry revenues has had a particularly adverse impact on the ability of Canadian record companies to finance Canadian production. Two other factors have added to that difficulty: the continuing escalation in production costs and the increasing consolidation of control over record distribution. For mainstream music, part of the cost escalation has come from the pressure to produce a music video as well as a sound recording in order to promote new records effectively.

While it goes beyond the scope of the Committee's Report to propose a specific policy for that purpose, we believe that there is a need for an overall strategy for the development of the Canadian-controlled sector of the sound recording industry in Canada and for an effective strategy for the production and marketing of Canadian sound recordings. While the Sound Recording Development Program, FACTOR/CTL and MusicAction represent important first steps, other complementary policy initiatives are also necessary.

In Chapter 2 we expressed support for the existing Canadian content requirements for radio. We also expressed our support for the assistance being provided to originating new Canadian recordings, and our view that minority categories of Canadian music also require assistance. However, we are also convinced that there is a need for an integrated development strategy for both the French- and English-language sectors of the recording industry.

Recommendation 23

> An integrated strategy should be established for the financing and development of Canadian-controlled sound recording companies as a more effective vehicle for the production, distribution and marketing of recordings by Canadian song writers, composers and performers.

2.7.3 Syndicated Radio Programming

While the Committee heard from trade associations representing the English- and French-language sound recording industries, we heard relatively little from Canadian producers of syndicated programming. Perhaps this simply reflects the limited amount of such production being done. Nevertheless, in its Vancouver hearings the Committee did hear from a company, Drew Marketing Ltd., which is active as an independent producer of syndicated Canadian programming.

The company's President, Dick Drew, noted that:

> ...audience surveys consistently prove that the majority of Canadians, and young Canadians in particular, prefer to listen to commercial radio stations. Therefore, it's critical that Canadian content programs be produced for broadcast on Canada's commercial radio stations. [Brief, June 18, 1987, p. 3.]

Arguing that independent producers were a potentially important source of Canadian programming, Mr. Drew stated that "At present there are no funds and no Canadian program requirements". While he is correct in noting that Telefilm Canada Broadcast Fund is in fact a television fund and not open to radio producers, we note that — although the resources available are mainly for recorded music — the Sound Recording Development Program, established by the Government in 1986, does include some assistance for the production of syndicated Canadian programming. However, the CRTC's Canadian content requirements apply only to music programming. In large measure this has reflected the fact that the "talk" part of radio programming is seen as largely local and, by definition, Canadian. However, this is changing as the use of syndicated and networked programming expands. The Committee has therefore recommended that there be overall Canadian content requirements for radio netwoks and that CRTC policies affecting syndicated programming be designed both to encourage the development and use of syndicated Canadian material and to discourage excessive use of syndicated foreign material.

The Committee believes that the recommendation it has made will help to create a stronger market for syndicated Canadian radio programs. However, there seems to be good reason to reexamine the access that independent producers of radio programming have to financial assistance, by comparison with film and video producers.

Recommendation 24

> In developing policies to strengthen Canadian content on radio, careful attention should be given to measures which would stimulate the development and use of syndicated programming originated in Canada and which could contribute to achieving the programming objectives contained in the *Broadcasting Act*.

2.8 Impact of Technology

The technological future of radio as well as television is under study by the Canadian Advanced Broadcasting Systems Committee, which brings together representatives of government and the broadcasting industry to make recommendations on the introduction of advanced broadcasting services.

Many AM radio stations have already begun broadcasting in stereo and the trend has been given impetus by the adoption of the C-QUAM (Motorola) standard in Canada. But it is expected to be five to seven years before AM stereo is commonplace, and the CBC is delaying conversion owing to budgetary constraints. [*Broadcaster* magazine, March 1988, pp. 5, 11-12.] Many new automobiles are now equipped with radios with AM stereo reception. This should encourage more stations to convert to stereo transmission, a relatively inexpensive operation, after which they can be received by both ordinary AM receivers and AM stereo receivers. Further conversion of stations and a major marketing effort will be needed to create consumer demand and assure that receivers in future provide for AM stereo as well as ordinary AM and FM reception. Incorporating stereo reception in a receiver adds almost nothing to the manufacturer's cost.

Many broadcasters are convinced that AM stereo sound is so close to FM sound that AM stereo stations would no longer be at a disadvantage. At the same time, however, there is some concern that both FM and AM stereo may lose listeners to compact disc players and — when they come — digital tape recorders, because of their higher sound quality. Experts are thus looking for ways to improve over-the-air transmission, including refinement of receivers. It has been estimated that it would take 10 to 15 years to reach the point where all receivers were manufactured to higher standards, enabling the desired changes in transmission standards. Meanwhile, a constant effort must be made to clear the air of the "electronic haze" caused by the myriad sources of possible interference in today's electronic environment.

Digital radio transmission, which would give CD quality reception, is also being examined. Experts are considering the possibility of making room for a group of such radio channels in the ultra high frequency (UHF) band, possibly in connection with supplying augmentation channels to accommodate high definition television transmission [see section 3.11, below]. One possibility would be to put digital radio channels in the band now occupied by aeronautical navigation systems if those are all moved to microwave. Another possibility for digital radio would be direct-broadcast-satellite (DBS) regional or national services to radios with dish antennas. Owing to the large footprint of the satellite, DBS is not suitable for local radio services.

There are also, of course, opportunities for delivering radio services by cable, whether taken off the air or from satellites. But receiver-mobility, one of the chief attractions of radio, argues for over-the-air or direct-from-satellite transmission. One way or another, the popularity of radio and its constant drive for better sound means that it will be making demands for advanced technology and more bandwidth on the higher reaches of the spectrum in the years to come.

3.0 CANADIAN TELEVISION

3.1 Introduction

The development of television broadcasting in Canada since 1952 has been quite different from that of radio. In the early days of radio no public policy was in place and broadcasting began in the private sector, with an extraordinary dominance of foreign programming. It was only later that experience led to the creation of a public radio service and a licensing and regulatory policy based on explicit legislative provisions. When television began, however, the Canadian Broadcasting Corporation already existed, as did a regulatory process based on legislative objectives for radio which had not changed fundamentally since the 1930s. In addition, there had been a public inquiry in advance to examine the way that television should develop.

In its 1951 Report, the Massey Commission recognized the challenges Canada would face with the advent of television if it was determined to establish a strong Canadian presence in the new medium. Television was expected to be ten times more costly than radio; it was also expected to be a very attractive medium commercially. The Massey Commission recommended that the CBC proceed with plans for national coverage and the production of Canadian programs, and that no private stations be licensed until the CBC had national television programs available. Commercial realities, the Massey Commission warned, would mean that "The pressure on uncontrolled private television operators to become mere channels for American commercial material will be almost irresistible". [Canada, Royal Commission on National Development in the Arts, Letters, and Sciences, (Massey Commission) *Report*, Ottawa: King's Printer, 1951, p. 283.]

Since Canadian television began in 1952 there has been a constant struggle to develop a Canadian broadcasting system which can provide a substantial proportion of well-funded Canadian programs. Every study since Massey has recognized the need for the government of Canada to play an active role if that purpose is to be achieved.

While television began in Canada in the public sector, since the 1950s the balance has continued to shift steadily toward the private sector. As Table 3.1 below indicates, of the 136 television stations in Canada, just 28 are now owned and operated by the CBC, while 89 are private stations. Most of the private stations are licensed by the CRTC to operate as affiliates of either French or English language networks. Of the 69 private English stations, 26 are affiliated to the public CBC network, 28 to the private CTV network, while the remaining 16 are independent stations with no network affiliation. In French-language television there are 19 private stations, of which 10 are affiliated to the TVA network, four to the Quatre Saisons network (which was licensed in 1986), and five to the French network of CBC. Six of the TVA affiliates are also affiliates of a fourth French network, Pathonic, which was created in the fall of 1986.

Table 3.1 Originating Television Stations by Language and Network Affiliation, 31 March 1988[1]

Network	English	French	Native[2]	Ethnic	Total
CBC owned	16	12	--	--	28
CBC affiliate	26	5	6	--	37
Independent	13	--	--	1[3]	14
TVA affiliate	--	10	--	--	10
CTV affiliate	28	--	--	--	28
Quatre Saisons	--	4	--	--	4
Community	4	2	4	--	10
Educational[4]	1	1	--	--	2
TV Ontario	1	--	--	--	1
Radio-Québec	--	1	--	--	1
Global	1	--	--	--	1
Total	**90**	**35**	**10**	**1**	**136**

Note:

[1] This table includes only television stations that originate some of their programming locally (originating station). It does not include stations that only rebroadcast the programming of another station (rebroadcasting station).

[2] There are six CBC affiliates and four independent stations that are licensed to originate some native language programs.

[3] There is only one independent ethnic station: CFMT-TV Toronto. An ethnic station is defined as a station that is licensed by the Commission to devote at least 60 percent of its broadcast week to ethnic programs.

[4] There is one French-language educational station in Montreal, CFTU-TV. There is also one licensed eduational station in Calgary to ACCESS (NCS 037-TV) but is not yet in operation.

Source: CRTC.

The private sector is also the dominant component of Canadian television broadcasting in its revenues, with total revenues of just over $1 billion in 1986, including both stations and networks. Of this total, English-language private television had revenues of $834 million, while private French-language stations and networks had revenues of $174.7 million. By comparison the CBC's TV budget for its fiscal year 1986-87 was $337.5 million for the English network and stations and $232.4 million for the French.

What is missing from this brief description of conventional, off-air broadcasting in Canada is the presence of the three major commercial U.S. television networks in Canada, and the public broadcasting service, PBS (usually referred to as the "3+1"). Available since the late 1940s — prior to the establishment of Canadian stations — in communities close to the U.S. border, the signals of the commercial networks are now imported by cable companies into Canada and carried on almost every cable television system, along with PBS and a number of independent American stations. This arrangement has had important consequences for Canadian television stations and networks, particularly in the private sector, which depend for a substantial share of their revenue on exhibiting the same programs that are carried on the American networks. The essential point is that the broadcasting system in Canada really has three components: the French-language Canadian stations and networks, the English-language Canadian stations and networks, and the American stations and networks which extend into Canada.

Beginning in 1982 the CRTC also licensed a number of new national television networks distributed by satellite-to-cable rather than linking local off-air stations as conventional networks do. The Canadian pay and specialty networks of this type, and the number of households they reach are shown in Table 3.2. The most popular, The Sports Network and MuchMusic, reach just over 1.2 million, or roughly 13 percent of Canadian households. The Commission has also permitted the delivery of a substantial number of complementary U.S. satellite-to-cable networks; the subscription levels to the most popular of these services are shown below.

Table 3.2 Number of Subscribers to Canadian and U.S. Pay and Specialty Programming Services, December, 1987

	No. of Households Reached
Canadian Movie Channels	
First Choice	509,561
Superchannel	188,658
Super Écran	156,246
Canadian Specialty Services	
Much Music	1,230,489
The Sports Network	1,282,122
Telelatino	138,147
Cathay	10,025
Chinavision	10,679
U.S. Services	
Arts and Entertainment	671,647
The Nashville Network	622,304
Cable News Network (CNN)	684,334
CNN Headline	342,110
Financial News	333,670
Country Music	266,905
The Learning Channel	127,094

Source: Canadian Cable Television Association (Mediastats Inc.).

The importance of pay and specialty services within Canadian television will increase substantially, however, when the new services licensed by the CRTC in November 1987 begin operation and the new regulations governing their carriage come into effect. Carriage on basic service could bring English-language specialty services to approximately 5 million cable households, and French services to roughly 1 million households.

The largest share of television viewing in Canada is accounted for by conventional private Canadian networks and their affiliated off-air stations. As Table 3.3 indicates, the CTV, TVA and Quatre Saisons networks and their affiliated stations accounted for a third of all television viewing in 1986 (33.4%), followed by the CBC's English and French networks and their affiliates, which accounted for just over one quarter (25.8%). Viewing of all American stations and networks was next, representing 22.9 percent. Independent Canadian stations, which have increased their share of viewing substantially over the past decade, account for 13 percent. The provincial educational television services which exist in just four of the provinces have 2.5 percent of viewers, while the pay and specialty services account for two percent.

Table 3.3 Audience Share Trends by Station Group Fall 1976--Fall 1986 (percent)

Station Groups	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986
English-language											
CBC	20.2	19.8	20.7	19.8	18.1	16.0	17.1	17.3	17.4	16.8	16.5
Owned	11.3	11.2	11.7	11.4	10.3	9.5	10.4	10.7	10.7	10.5	10.4
Affiliates	8.9	8.6	9.0	8.4	7.8	6.5	6.7	6.6	6.6	6.3	6.1
CTV	25.1	25.2	24.8	25.6	23.1	26.7	25.9	25.5	22.9	23.0	21.0
Independents[1]	8.9	9.5	9.6	9.3	11.3	11.7	11.4	13.2	12.8	11.5	13.0
Pay television	--	--	--	--	--	--	--	--	1.3	1.5	1.7
TVO/KNOW	0.4	0.4	0.5	0.6	0.6	0.8	0.8	1.0	0.9	1.0	1.1
United States	22.1	22.2	22.6	22.7	24.5	23.9	24.6	24.0	23.7	23.6	22.9
Total	**76.7**	**77.1**	**78.2**	**78.0**	**77.7**	**79.0**	**79.6**	**80.9**	**79.0**	**77.4**	**76.1**
French-language											
CBC	11.8	11.0	10.3	9.9	8.3	8.4	9.1	9.0	9.1	9.2	9.3
Owned	7.5	6.9	7.0	6.5	5.6	5.7	5.8	6.3	6.4	6.6	6.6
Affiliates	4.3	4.1	3.3	3.4	2.7	2.7	3.3	2.7	2.7	2.6	2.7
TVA	11.3	11.6	11.2	11.7	13.3	11.9	10.5	8.3	10.3	11.5	11.3
Quatre Saisons	--	--	--	--	--	--	--	--	--	--	1.1
Radio-Québec	0.2	0.3	0.3	0.4	0.6	0.6	0.7	0.9	1.1	1.2	1.4
Pay television	--	--	--	--	--	--	--	--	0.2	0.3	0.3
TVFQ	--	--	--	#	0.1	0.1	0.1	0.1	0.1	0.1	0.1
Others[2]	--	--	--	--	--	--	--	0.8	0.3	0.3	0.3
Total	**23.3**	**22.9**	**21.8**	**22.0**	**22.3**	**21.0**	**20.4**	**19.1**	**21.0**	**22.6**	**23.9**
All Stations	**100.0**	**100.0**	**100.0**	**100.0**	**100.0**	**100.0**	**100.0**	**100.0**	**100.0**	**100.0**	**100.0**

[1] Includes House of Commons and Global
[2] Includes House of Commons. In Fall 1983 CHAU was also included.
-- Not on air
Less than 0.05 percent
Source: CBC Research (BBM)

At the heart of the rationale for the involvement of the Canadian government in broadcasting has been the high cost of financing domestic television programming. In its *Report* the Task Force on Broadcasting incorporated information on the extent of financing being made available for Canadian programming by the CBC and private broadcasters. The data which were gathered in a special survey for the Task Force are set out in summary form in Table 3.4 below. These data show our dependence on the CBC for Canadian programming. The CBC accounted for 60 percent of all expenditures on Canadian programming in English, and 76 percent in French. In entertainment and the arts the CBC accounted for 73 percent of expenditures in English and 68 percent in French. Nevertheless, private broadcasters committed substantial funding to Canadian programming, particularly in the area of news and information in English and entertainment in French.

Table 3.4 Canadian Programming Expenditures for CBC and Private Broadcasters, 1985

	CBC		**Private Broadcasting**		**Total**	
	$ millions	% of total	$ millions	% of total	$ millions	% of total
English Stations						
News and information	185.2	55	151.2	45	336.4	59.8
Sports	30.7	49	32.4	51	63.1	11.2
Children's	14.2	88	1.9	12	16.1	2.9
Entertainment, Arts, etc.	106.4	73	40.3	27	146.7	26.1
Total	**336.6**	**60**	**225.9**	**40**	**562.5**	**100.0**
French Stations						
News and Information	99.5	77	30.0	23	129.5	48.1
Sports	21.5	88	2.9	12	24.4	9.1
Children's	13.1	99	.1	1	13.2	4.9
Entertainment, Arts, etc.	69.5	68	32.8	32	102.3	38.0
Total	**203.6**	**76**	**65.8**	**24**	**269.4**	**100.0**

Source: Report of the Task Force on Broadcasting Policy, p. 437.

The significance of the figures in this table can best be understood by bearing in mind that in English-language programming a single hour of drama may easily cost $500,000, and in the United States costs may run much higher. Hourly production budgets in French are substantially lower, but the increasingly competitive market is creating pressure to raise them. Production costs, however, vary greatly with news and information and sports programming being far less expensive than drama. As a result, the schedules of English-language broadcasters in particular have tended to provide Canadian news, information and sports programs and non-Canadian largely (American) entertainment programs.

The extent to which Canadian broadcasters carry foreign programs is reflected in the $165 million they spent on them in 1985. Most of these expenditures were accounted for by private English-language broadcasters who spent $133 million on foreign programs, mainly for entertainment programming ($121 million), most of it from the United States. Since first run United States programming can be purchased for between five and 10 percent of its production budget, and syndicated programming for even less, Canadian broadcasters can show expensive programs at a fraction of cost.

The programming categories which account for most of the funds committed to Canadian programming are not, particularly in English-language broadcasting, those which account for most television viewing. In fact, as Table 3.5 indicates, most television viewing is of drama and entertainment.

Table 3.5 Television Viewing by Type of Program
6 a.m.-- 2 a.m. (All Day) 1986 Calendar Year

	English Television (%)	French Television (%)
News	12	11
Public Affairs	8	10
Sports	10	7
Drama	48	42
Variety-Music-Quiz	18	26
Other	4	4

Source: CBC (A.C. Neilsen)

Audience focus on dramatic programs is even more marked in the heaviest viewing period from 7 p.m. to 11 p.m., when 63 percent of viewing in English and 59 percent in French television is of drama. However, in the drama category less than five percent of the programming available is Canadian, particularly in English television. This is not surprising, of course, given the extent of expenditures on such programs.

In English television, the patterns of program availability and viewing are set out in Table 3.6 for the calender year 1985, the most recent full broadcast year for which such data are available.

Table 3.6 Availability and Viewing of Canadian Programs in English-language Television
6 a.m. -- 2 a.m. (All Day) 1985 Calendar Year

	Canadian Programs Available (%)	Viewing of Canadian Programs (%)
All Programs	29	29
News	45	90
Public Affairs	51	65
Sports	51	64
Drama	4	3
Variety-Music-Quiz	30	21

Source: CBC Research (A.C. Neilsen).

In the case of French television the patterns of program availability and viewing differ significantly.

Table 3.7 Availability and Viewing of Canadian Programs in French-language Television
6 a.m. -- 2 a.m. (All Day) 1985 Calendar Year

	Canadian Programs Available (%)	Viewing of Canadian Programs (%)
All Programs	59	65
News	92	100
Public Affairs	82	97
Sports	94	94
Drama	13	22
Variety - Music - Quiz	67	83

Source: CBC Research (A.C. Neilsen).

These figures indicate two major differences between English and French-language broadcasting: first, that in French most (59%) of the available programming is of Canadian origin, while in English, most of the available programs (71%) are of foreign origin. The second significant difference is the great popularity of Canadian drama programming available in French.

Table 3.8 indicates for each category of station in French and English the extent to which the programming viewed is of foreign origin. The key factor in the difference between French and English television is the presence of the American stations and networks on English TV, carrying almost exclusively American programming. However, it is also true, as Table 3.8 indicates, that in the evening viewing hours (7:00 p.m. to 11:00 p.m.) 77 percent of the programming being shown by private English-language Canadian stations is of foreign origin, and that programming accounts for about 78 percent of viewing. As the table indicates the CBC's owned and operated stations perform best both in making Canadian programming available and in attracting audiences to that Canadian programming, followed by CBC's private affiliates and the private French-language stations.

Table 3.8 Availability and Viewing Share of Foreign Programs (Monday to Sunday, Calendar 1985)

	Availability (%)		Viewing (%)	
	6 am - 2 am	7 pm - 11 pm	6 am - 2 am	7 pm - 11 pm
French-language Television				
French Canadian stations and TVFQ	41	44	35	41
French Canadian stations only	36	40	35	41
CBC owned	33	24	27	26
CBC affiliate	39	30	36	29
TVA	41	51	39	54
Other[1]	49	59	36	41
English-language Television				
English Canadian and American stations	71	77	71	78
English Canadian stations only	48	59	58	67
CBC owned	41	21	36	28
CBC affiliate	46	38	54	48
CTV	48	74	62	79
Others[2]	54	75	72	84

Notes:

[1] Includes Radio-Québec, TVFQ and Pay-TV.

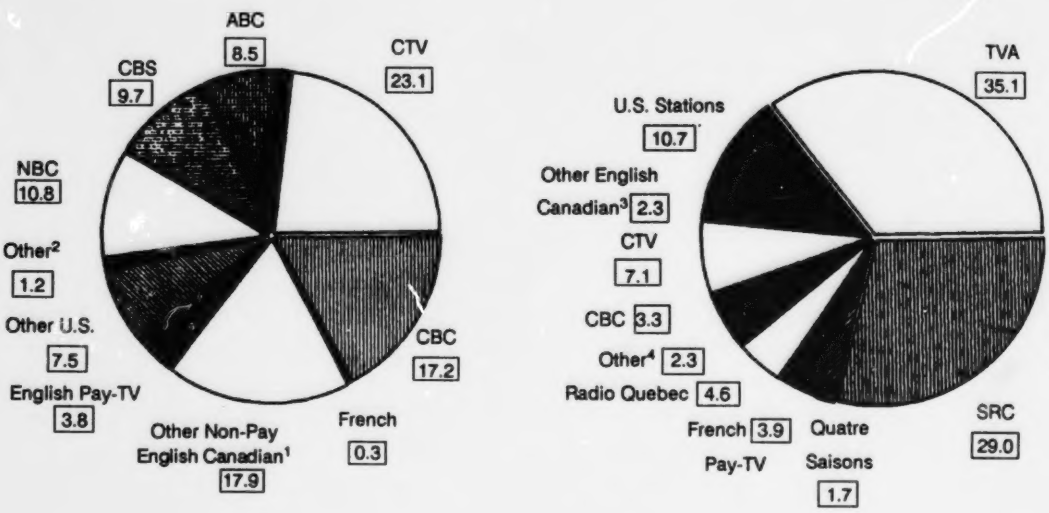
[2] Includes Global, independent stations, TVO, The Knowledge Network and Pay-TV.

Source: CBC Research (A.C. Nielsen)

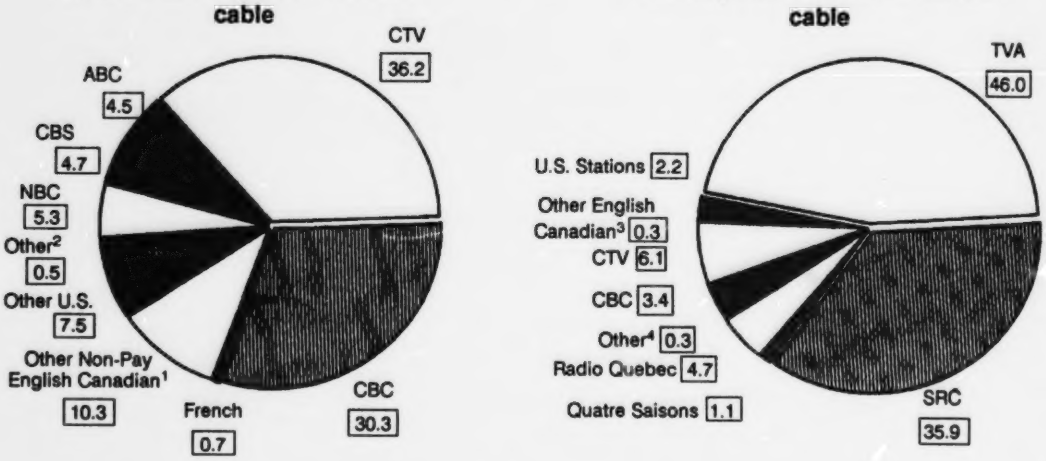
One of the major changes in the Canadian broadcasting system over the past 20 years is the rapid increase in subscription to cable television. While only 21 percent of Canadian households subscribed in 1970, that figure had increased to 54 percent by 1980, and to 67 percent by 1987.

The cabling of Canada, which was driven largely by cable's ability to deliver clear signals from the U.S., has important policy implications. First, those Canadians with cable are less likely to watch Canadian stations and networks and, therefore, less likely to watch Canadian programming. While among anglophone viewers, American stations account for just 23 percent of television viewing in homes without cable, they account for 36.5 percent of viewing in homes with cable. Second, francophone Canadians who subscribe to cable are somewhat less likely to watch French-language programming. In 1986, francophones without cable spent 87.7 percent of their viewing time watching French-language stations, while those with cable spent 76.6 percent of their time watching French-language television. Figure 3.1 provides a more detailed indication of the impact of cable on Canadian television viewing.

Figure 3.1 Viewing Patterns of Anglophone and Francophone Audiences with and without Cable Television--1986 Calendar Year


Anglophone Viewers-- with cable

Francophone Viewers -- with cable


Anglophone Viewers -- without cable

Francophone Viewers -- without cable

[1] Other English non-pay Canadian include Global, Canadian Independents and Provincial educational networks
[2] Other includes CFMT, cable and the House of Commons National Satellite Channel
[3] Other English Canadian includes Global, Canadian Independents, Provincial educational networks and English Pay-TV
[4] Other includes TVFQ, CFMT, cable and the House of Commons National Satellite Channel.

Source: CBC Research (A.C. Nielsen)

Developing and implementing cable TV policies that reflect Canadian broadcasting objectives has been one of the central challenges for the CRTC over the past two decades. The Committee's Sixth Report presented legislative proposals which would provide a clearer basis for CRTC regulation of cable television (Recommendations 48 through 62). In the Committee's Fifth Report we also recognized the potential for Canada to begin to benefit to a greater degree from the strength of the cable industry through the development of Canadian satellite-to-cable networks. In this chapter and in Chapters 4, 5, 6 and 8 we look further at issues related to the regulation of the cable industry and the development of satellite-to-cable networks.

One of the benefits of the development of cable television in Canada has been the provision of commuity access channels, although they attract a barely measurable proportion of overall viewing time. These are in effect closed circuit television services which the CRTC has required cable companies to offer as part of the basic service provided to subscribers.

Community television differs from community radio in that it does not operate through independent stations. Instead, community programming is the responsibility of cable operators. Most cable systems are required to provide a community channel, and all are expected to encourage the development of community expression as their circumstances allow. Unfortunately, as with community radio, very little information is available on the nature of the programming produced by community channels, the viewer frequency, or the extent of support community groups actually receive from cable operators. This situation may be changing. Two recent independent surveys have included some viewing data on the community channel. The Canadian Cable Television Association has recently done its own survey of the community channel. As well, the Regroupement des organismes communautaires de communications du Québec commissioned an independent study to obtain more information about its audience. Results of these studies were released in February 1988.

The remainder of this chapter reviews and assesses existing broadcasting policies affecting the various components of television broadcasting in Canada, beginning with an overview of current CRTC licensing and regulatory policy. The Committee's review reflects a recognition of the enormous imbalance that now exists between Canadian and foreign television programs. No developed country in the world is so dominated by foreign television programs, nor is there any country in which the television broadcasting market is so fragmented. As the Task Force noted, Canadians in many cities have more opportunity to see American television programs then people in the United States itself, largely because in Canada they are shown on both the imported U.S. channels and on Canadian stations and networks. The current situation in Canadian television broadcasting is far from that envisioned by Parliament in 1968 when it established objectives for the system in the *Broadcasting Act*.

Clearly, there is no single solution. Through the 1980s, however, the problems have increasingly been recognized. Policy initiatives taken in 1983 — particularly the creation of the Canadian Broadcast Program Development Fund — represented an important initiative to begin to resolve those problems. There is still a need for further change, but the existing strengths of the system must be kept in mind and built upon.

In assessing policy alternatives in this report the Committee has tried to be realistic about the substantial cost of producing high quality programs, particularly in entertainment and the arts. We have also kept in mind both the limitations that result from excessive market fragmentation and the consequent need to develop policies that will draw on all available sources of financing to support Canadian programming. It is necessary to concentrate these resources so that Canadian programming will be produced with competitive budgets. In this chapter we review the role of each component of television broadcasting in Canada, looking at the contributions that each part of the system can and should make toward achieving the legislative objectives we suggest for a new broadcasting act.

3.2 Licensing and Regulation

To ensure that the objectives of the *Broadcasting Act* are carried out in television the CRTC has three policy instruments: licensing, regulations, and conditions of licence. Frequently the licensing power of the CRTC is overlooked, but it must be remembered that the power to issue or withhold a licence is extremely important because it determines the structure of the Canadian broadcasting system, which in turn determines what is possible for the system to accomplish.

3.2.1 Licensing of Canadian Stations and Networks

The Commission creates the structure of the system in both official languages locally, regionally and nationally by deciding how many stations to license, which ones to license, whether to license them as independents or affiliates of networks, how many conventional networks to license (such as CTV in English and TVA in French), how many satellite-to-cable networks to license as specialty services or movie channels, and so on. For example, the Commission has fostered different structures in English and French television, favouring new independent station licensees in English but licensing only affiliate stations of a second private network (Quatre Saisons) in French.

The Commission's licensing decisions also affect the balance between the public and private sectors. For example, the licensing of provincial educational television services introduced a new public element into the system. Greater variety was introduced in the public sector in the provinces where such services exist. On the other hand, the decision not to license the CBC to supply second networks in English and French restrained the growth of the public sector at that time.

One of the major structural changes of recent times came in 1987 with the licensing of a number of new specialty services on basic cable, and the authorization of other services to move to the basic service from a discretionary tier. This decision will bring about a modest increase in monthly basic cable subscription rates when the services begin in September of 1988 but will greatly increase program choice.

Only time will tell how this addition to the structure of broadcasting will affect over-the-air broadcasters. The CRTC, which stressed its concern with safeguarding the health of existing services, said it was:

> ...satisfied that, because of the narrowcast nature of their programming, these specialty services will not have an undue adverse impact on the revenues and programming costs of conventional broadcasters and will not cause a significant degree of audience fragmentation. [*More Canadian Programming Choices*, CRTC Decisions on Canadian Specialty and Pay Television Services, 30 November 1987, p. 62, 63.]

An additional important structural development in the licensing decisions of recent years has been the new emphasis on broadcasting experience and financial strength, with less concern about ownership concentration. We examine this aspect of licensing policy in Chapter 8 of this Report.

One of the key structural issues in broadcasting is the balance between expanding the range of broadcasting services and avoiding a level of fragmentation of viewing and revenues that will make it impossible to provide high quality programming and an adequate range of Canadian programming. A directly related issue is the balance that should be struck between local stations and regional or national networks.

3.2.2 Regulation of Cable Systems, TV Networks and Stations

The CRTC also sets regulations for particular categories of licensees, such as television stations, conventional networks, broadcasting receiving undertakings (cable), and so on. In television, two sets of regulations are particularly important: first, those that apply to cable and other distribution systems; and second, the regulations for TV stations and networks.

The CRTC's Cable Television Regulations are as important in determining the structure of television broadcasting in Canada as decisions on station and network licensing. Local cable systems are now the main delivery vehicle for television, and the cable regulations determine what services they must or may carry. This includes establishing the priority to be given to the carriage of CBC stations, provincial broadcasting services and private stations licensed to serve a particular local or regional population. It also involves determining to what extent and on what basis television stations not licensed to serve a particular community, including both distant or non-local Canadian stations and American stations, may be carried on the local cable system. Finally, the regulations determine which satellite networks, including Canadian and non-Canadian movie channels, specialty services or superstations may be carried, as well as requiring that all Class 1 and Class 2 cable systems, unless exempted by condition of licence, provide a community programming channel. In the case of the specialty and movie channels the Commission has the authority to regulate the price structure and to decide whether such services are carried on basic cable or a discretionary tier.

Because satellite and cable retransmission of television services has not been covered by copyright law, the CRTC has had to decide on the extent of protection to be given Canadian stations and networks that have purchased broadcast rights. It is, of course, only because this copyright exemption exists that the issue of carriage of distant Canadian stations and U.S. stations arises. This has made CRTC policies on cable carriage far more important than they would have been if copyright protection for program suppliers and broadcasters had been extended to cable and satellite retransmission. Normally, copyright owners grant the exclusive right to broadcast their works to specific television stations in specific markets, and are restrained by the agreement from offering that right to any other broadcaster in the market.

> One of the most troubling problems presented by cable television has been the fact that through the importation of distant signals, it upsets this carefully constructed market differentiation. Programs that were originally licensed for broadcast by a station in one market are microwaved or delivered by satellite to a cable system in a distant market, where the programs might have already been sold on an exclusive basis to a station in that market. [Peter S. Grant, "Free Trade and Retransmission of Program Signals: New Developments in Program Rights Payments and Protection in Canada," Presentation to the Law Society of Upper Canada Conference on Canadian Communications Law and Policy, 25 March 1988.]

Under the free trade agreement with the United States, Canada has agreed to follow the practice of most countries and provide for "equitable and non-discriminatory remuneration" for retransmission of distant signals. As Mr. Grant points out, however, it would be impractical to negotiate remuneration in respect of every program on a retransmitted station's schedule. Instead, a fair and equitable royalty is to be paid for retransmission.

> This limitation means that the issue as to which distant broadcast signals can or cannot be carried by cable television systems remains squarely in the hands of the regulator. Thus local television stations will still need to turn to the CRTC ... to protect the integrity of their use of programs in the local market and to minimize fragmentation of audiences and revenues. Nothing in the Act rolls back the clock on this question. [Grant, Retransmission.]

The CRTC will be able to continue applying the "simultaneous program substitution" rule, under which the local broadcast of a TV network program and its accompanying commercials must be substituted for an imported signal of the same program if the local broadcaster requests it. Or the Commission may take other measures to protect local stations in respect of program rights. These matters are further examined in Chapter 8 on copyright law in broadcasting.

As the Committee underlined in its Sixth Report,

> ...nothing is more important to broadcasting policy than the principles and regulations governing the channels that cable television and other distribution undertakings are required or permitted to carry. For cable television, these regulations represent obligations that are parallel in their importance to the Canadian content requirements that apply to individual licensed broadcasters. It is the combination of the Canadian content obligations applying to individual broadcasters and the carriage priority and other carriage rules applicable to cable that determines whether the Canadian programming objectives set out in broadcasting policy can be met. [Sixth Report, 36:77.]

In Recommendations 57 and 58 of the Sixth Report, the Committee urged that the CRTC continue to have power to set cable carriage priorities, and that the broadcasting act require it to give first priority to public-sector Canadian services, followed by private Canadian services. It was also recommended that in French-speaking areas priority be given to cable services in French.

In reviewing the main provisions of the 1986 Cable Television Regulations, as amended by the 1987 specialty services decisions, it is apparent that these regulations and the general television regulations reflect the change in the CRTC's emphasis from regulation to conditions of licence.

CABLE TELEVISION REGULATIONS

Cable operators may only distribute programming services required or authorized by the CRTC. The operators must own and operate: (a) their own headends (facilities where programming is received); (b) the amplifiers (required at intervals to bring the signal back up to strength); and (c) the subscriber dropwires (the lengths of cable that actually come into residences, usually from telephone poles).

Programming services are defined as sound and visual content designed to inform or entertain, while the term non-programming services is used for alphanumeric service, which consists of print, graphics, still images and sound. Operators do not need authorization for non-programming services, but are required to give programming services priority and must not cross-subsidize non-programming services from subscriber fees.

In its cable regulations the CRTC establishes three categories of cable licensees: Class 1 systems are those with 6,000 or more subscribers, while Class 2 systems have fewer than 6,000. Notwithstanding this distinction a separate category exists for all systems, essentially those in remote and underserved areas, where the signals of two or fewer licensed television stations are available off-air. These are referred to as Part III licensees. While there are some differences in the regulation of Class 1 and 2 systems, the main provisions are the same. In the case of Part III licenses, however, the regulatory requirements are substantially different. The following text describes the major provisions which apply to Class 1 and 2 systems, looking primarily at the Commission's current policy on the carriage by cable of Canadian and non-Canadian television services.

Cable operators must devote a greater number of TV channels to Canadian than to non-Canadian television services, although the Canadian services do contain a measure of American content. As mentioned above, local TV stations can protect their rights by requiring their signal to be substituted for imported signals of the same program on local cable.

The priorities for carriage on basic cable — that is, the service for which a flat monthly fee is charged — are the following TV services: local CBC, provincial educational, all other local, regional CBC, other regional, CBC by satellite or microwave relay and community service. There are then a large number of authorized services that cable systems may deliver without specific application to the CRTC, once the priority carriage requirements have been met. The regulations authorize distribution of U.S. stations generally available over the air, except that there must not be duplication of networks and no station which began operation after January 1, 1985 may be carried. Otherwise, cable systems may offer what is known as the "three plus one": stations providing each of the three major U.S. commercial networks (ABC, CBS, and NBC) and a non-commercial network (PBS). The priority rules for cable carriage of radio broadcasting have already been noted in Chapter 2 on radio.

Subsequent to the Commission's decisions of November 30, 1987 on the licensing of Canadian specialty and pay television services, a number of changes were proposed to establish carriage requirements for cable. Since these new services will reach viewers almost entirely through their carriage on cable, these changes to the cable regulations were an essential part of the CRTC decision. The key provision in the new regulations is that, unless exempted through a specific condition of licence, all Class 1 or 2 cable systems which choose to offer the newly licensed Canadian specialty services must offer them as part of their basic service.

In the new regulations cable systems are divided into two categories — those serving primarily francophone communities and all other licensed cable systems. Cable systems serving mainly francophone communities are required to carry the newly licensed French-language specialty services (Canal Famille, Météo Média, Musique Plus, Réseau des Sports and TV-5) on basic service, if they choose to carry them. Class 1 licensees in francophone areas are required until August, 1991 to carry all of the licensed French-language specialty services if they carry any of them. Systems serving primarily francophone subcribers may also choose to carry one or more of the English-language specialty services and will be expected to carry them on basic service unless the specialty service originator agrees to their carriage on a discretionary basis.

The Committee has expressed its agreement already with the policy of giving priority to the carriage of French-language services in cable systems which serve primarily French-language audiences. As a result, this aspect of the Commission's new cable regulations for specialty services is one which we strongly support in principle.

In other cable systems the Commission has required that those that decide to carry the newly licensed English-language specialty services must carry them on basic. This policy will apply to YTV, Vision TV, MétéoMédia, and the CBC News and Information channel. In the case of the English-language specialty services which had been licensed in 1983 as discretionary services — The Sports Network (TSN) and MuchMusic — these cable systems will now be required to carry such services as part of their basic service unless the licensees consent to their continued carriage on a discretionary basis. The same policy will apply to the carriage of the new French-language specialty services in these systems.

Since the CRTC is required under the *Broadcasting Act* to regulate the whole of the broadcasting system in order to achieve the goals set in the Act, it must also establish policies governing the carriage of discretionary television services on cable. With the November, 1987 decision to permit the carriage of TSN and MuchMusic on basic and to license a new

English-language pay television service, The Family Channel, the CRTC amended its policies related to discretionary services. The Commission continues to require that any service licensed as a pay television service — including First Choice, Super Channel, Super Écran and The Family Channel — be carried only as a discretionary service and not on basic. In addition, the ethnic specialty services, Chinavision and Telelatino may only be carried on a discretionary basis, as well as any distant television stations not included in the Commission's list of eligible satellite services.

In the case of non-Canadian television signals, the Commission permits licensees to allocate up to eight channels for the distribution of non-Canadian satellite services as discretionary services. This is in addition to the non-Canadian channels which can be carried on basic service as set out above. Licensees may carry on these channels independent U.S. stations or duplicate network signals (CBS, NBC, ABC and PBS). Alternatively, they may select from the following list of U.S. specialty networks:

Cable News Network (CNN)

CNN Headline News (CNN-2)

The Nashville Network (TNN)

The Arts and Entertainment Network (A&E)

Financial News Networks (FNN)

The Weather Channel (TWC)

Biznet

Country Music Television

Cable Satellite Public Affairs Network (C-Span)

The Silent Network

AP Newscable

Dow Jones Cable News

Reuters News View

UPI Data Cable

The Learning Channel

Tempo Television

The selection of these channels is based on the requirement that they provide programming complementary to that offered on licensed Canadian pay and specialty services. In addition to the restriction that not more than eight channels of such programming be offered, the regulations are also designed to some extent to encourage carriage of Canadian pay and specialty services. While increased carriage of some Canadian services will be encouraged, concerns have been expressed over an increased presence of American channels. Five channels of U.S. programming can be carried for each Canadian pay service carried, while two U.S. channels can be carried for each Canadian specialty channel offered. Licensees are not permitted to offer a tier (or package) of services that includes only U.S. signals.

In these recently revised regulations the Commission changed its earlier policy of not permitting the carriage of U.S. superstations — that is the signals of local U.S. TV stations which are being distributed nationally by satellite — on Class 1 and 2 cable systems. Previously only Part III licensees had been allowed to carry these signals. Carriage of such signals raises the copyright concerns referred to earlier and which are addressed further in Chapter 8. The Commission specified in its decision that these signals, which are listed below, could only be carried with a Canadian pay television service:

WTBS-TV Atlanta

WGN-TV Chicago

WOR-TV New York City

WPIX-TV New York City

USA Network

The list of eligible satellite channels also includes the six U.S. stations which the Cancom service is listed to carry, although these signals are usually carried on basic cable service as part of the "3+1" which cable systems are authorized to provide.

The chief innovation of the 1987 specialty services decision was to permit specialty programming on the flat-rate basic service in this country. Before this, programming had only been considered for discretionary — extra-charge — tiers. In the United States, offering a package of specialties on basic service was the main way in which cable was marketed after exhausting its initial possibilities of bringing remote signals to communities that had little or no television. In Canada, on the other hand, cable grew through the marketing of the main American networks on the basic service.

The Consumers' Association of Canada and other groups argued that the consumer should have the right to pay for extra services individually, rather than be forced to pay a higher flat rate for the package. It is to some extent a question of marketing concepts. Undoubtedly, Canadian specialty services would be put at a disadvantage in this country, by comparison with American specialty services in the United States, if they continued to be barred from basic service and were allowed only on discretionary tiers. While the Task Force recommended against additional Canadian services on basic, except in French-language systems, this Committee in its Fifth Report expressed no objection in principle and suggested a pragmatic approach based on practical considerations. [Fifth Report, Issue 33:30.]

The CRTC stressed in its decision that "the total potential cost to subscribers of either the French or English language package falls below what studies have indicated subscibers are willing to pay to have access to new and attractive services". [*More Canadian Programming Choices*, p. 62.] The wholesale price of specialty services that the cable operator may pass through to subscribers to basic services is set by the Commission.

The structure created by the Commission, through its licensing decisions and cable regulations, determines the potential of licensed television stations and networks to provide Canadian programming both locally and nationally, and in English and French. The licensing decisions of the Commission will also become increasingly important in the case of native-language programming and the programming of multilingual or ethnic-language stations and networks.

As to which is the more important influence on programming, the structure of the industry or current regulations, the CRTC was reluctant to venture an opinion when questioned by the Committee. It said:

> The Commission's licensing decisions with respect to new services may affect the structure of the industry which has been in constant evolution over the last few years. Whether the structure of the industry or regulations and licence condition are more important in determining the capacity of private television to provide Canadian programming is a moot point and not easily answerable. Both are important, as well as other regulatory instruments and policies. [CRTC Response to Questions Submitted on 15 December 1987, Private Television, Question 10; January 1988.]

TELEVISION BROADCASTING REGULATIONS

The main purpose of the television regulations is to ensure that more than half the programming provided by station and network licensees is Canadian in content.

The measurement of Canadian content is based on the 1984 CRTC definition which is similar to the system used to certify films as Canadian for the purpose of the Capital Cost Allowance. A Canadian program must have a Canadian producer and then earn six points, based on two points for a Canadian director, two for a Canadian writer, and one each if the following are Canadians: leading performer, second leading performer, head of art department, director of photography, music composer, and editor. Regardless of points, either the director or writer and at least one of the leading performers must be Canadian, with the possibility of exceptions if "all other key creative functions are filled by Canadians". Finally, at least 75 percent of payments to individuals, in addition to those listed above, must be to Canadians, as must 75 percent of the cost of processing and post-production services.

The CRTC also accepts as Canadian content all productions produced under Canada's official co-production treaties with other countries. Such treaties are negotiated by the Department of Communications and administered by Telefilm Canada. Commenting on this policy, the Task Force stated that "The target in negotiating such treaties is to ensure a fair balance of both cultural and economic benefit to each country, an objective which in the past has not always been successfully achieved by Canada". [*Report*, p. 113.]

While they do not qualify under the criteria used for defining a Canadian program under the Capital Cost Allowance tax incentive, "co-ventures" between Canadian and non-Canadian producers, that is productions which involve Canadian and non-Canadian producers but are not made under any negotiated co-production treaty between the Canadian government and the other country involved, are treated as Canadian by the CRTC. The Commission requires that on such projects, which are now increasingly common, the Canadian producer must have at least equal decision-making power. The Task Force concluded, however, that "Such formal requirements ... cannot guarantee an equal division of real creative control in cases where the foreign producer has brought in most of the funding through a pre-sale to a broadcaster in the United-States".

Co-ventures must, however, qualify under the more detailed point system described above, which at least ensures that economic and industrial benefits result. The Committee believes there should be some provision for reflecting Canadian identity in co-ventures.

The Commission also accepts as Canadian both parts of "twinned" Canadian and foreign productions. Under this approach two one-hour programs, for example, put together as a combined production package would both qualify as Canadian, although one was Canadian and one was foreign. In this way an hour of Canadian programming is credited as two hours. Similarly, Canadian drama productions which qualify for 10 points receive a "150 percent credit", that is a one-hour program receives credit for one-and-one-half hours. Any foreign program which is dubbed into English, French or a native Canadian language also qualifies for one-quarter Canadian content credit — that is every four hours of such programming carried qualifies for credit as though it were one hour of Canadian programming.

Commenting on the cumulative effect of this set of guidelines the Task Force observed that they had the virtue of being "explicit and objective" but concluded that as a result of the complexity and the many special provisions "a great deal of programming today qualifies technically as Canadian without there being much distinctly Canadian about it, and the criteria seem designed to permit it". [*Report*, p. 114.]

Stations and networks are required to devote not less than 60 percent of the broadcast year, and of any six-month period specified in a condition of licence, to Canadian programming, as defined above. The CBC must observe this content requirement in the viewing hours from 6 p.m. to midnight (actually it achieves much higher Canadian content), while private stations are allowed to average 50 percent over this period.

The regulations contain provisions against the broadcasting of hatred, obscenity, profanity, sexually abusive conduct, and false or misleading news. They circumscribe advertising of alcoholic drinks and impose other qualitative limits on various types of advertising. The regulations require equitable time allocations to political parties and rival candidates in election campaigns or referendums. Special regulations govern ethnic programming. All TV broadcasters must keep logs and intelligible audiovisual recordings of all their programming. Advertising is permitted up to 12 minutes in any hour, and can be loaded unevenly in a program lasting more than an hour.

Additional time is allowed for public service announcements and the promotion of upcoming Canadian programs.

There is more advertising per hour on Canadian television than in any other country. While in the U.S. there is a voluntary limit of 10 minutes per hour, to which at least the networks adhere, in Canada it is 12 minutes per hour on both the CBC and the private networks and stations. This means that a person who watches five hours of programming on the CBC or the Canadian private networks or stations will have watched a full hour of commercials.

One member of the Committee considers that this is too much and that the system should work towards reductions in the total time permitted to advertisements, and towards better grouping of commercials to reduce the intrusions where they interfere with the enjoyment of the programs. In drama productions, especially, interruptions for advertisements should be restricted and, desirably, eliminated. Programming uninterrupted by commercials is common in European countries, many of them smaller in population and resources than Canada. Quality of viewing and not just quantity and diversity should bear consideration in determining the use of the Canadian public's airwaves. The CRTC should examine this question with the broadcasting community (widely considered to include writers, directors and performers) to establish priorities and goals.

A separate set of regulations, issued in 1984, governs pay television. The regulations stipulate that no advertising is to be carried. There is no regulation of the subscription fee for pay-TV channels: that is left to the exhibitor and cable operator to agree upon. Pay-TV licence holders are not allowed to produce their own programming, since this might conflict with the interest of others who want programs to be shown on their channels. They must purchase programming from independent producers and are allowed to rent studios and facilities to these producers. The restriction on production does not apply to multilingual pay services.

Like the general TV regulations, the pay-TV regulations prohibit the broadcasting of hatred on the basis of race, national or ethnic origin, colour, religion, sex, age, or mental or physical disability. In addition, pay-TV licensees must warn viewers if programs are suitable only for adults because of violence, nudity or explicit sexual conduct, coarse language, or other content likely to be offensive to some viewers.

The Canadian content requirements for specialty or pay programming distributed by cable are determined, not by blanket percentage quotas as in the case of over-the-air TV broadcasting, but by conditions of licence for each licensee on a case-by-case basis.

3.2.3 Conditions of Licence

After some 20 years experience of Canadian content quotas under the BBG and the CRTC, the Commission was led to conclude in a 1979 study that blanket provisions were not enough. Requirements had to be made of individual broadcasters on the basis of their capabilities and reinforced through conditions of licence.

The test case became the CTV network, which appealed to the Supreme Court of Canada when the CRTC ordered it to provide 26 hours of new and original drama in the 1980-81 season and 39 hours the following season. [*Report*, p. 466.] The Supreme Court upheld the Commission's right to set such regulations. The CRTC again stressed the inadequacy of Canadian content quotas alone when it issued a 1983 *Policy Statement on Canadian Content in Television.*

The 1983 policy set a goal of making an adequate amount of Canadian programming available in all categories. It noted that "children's programs, variety, and particularly drama, are seriously underrepresented in Canadian television schedules". The 1983 report had three main results: the adoption of the point system for Canadian content outlined above; the use of a six-month rather than annual period for meeting content quotas (if so imposed by condition of licence) and the use of conditions of licence as a complement to the general regulations.

The 1983 CRTC policy was complemented by the government's establishment of the Broadcast Fund to finance a third of the cost of Canadian programs. The government expected that the CRTC would define appropriate targets in each program category and establish the responsibilities of particular broadcasters with respect to hours and expenditures. The Task Force found in 1986, however, that "very little of the new approach suggested after the 1979 review has been implemented".[*Report*, p. 467.]

The Task Force held that minimum levels of expenditure to produce Canadian programs should be set.

> Private stations and networks must be required to commit greater resources to Canadian programs. The CRTC should use conditions of licence to require that stations and networks make expenditures for internal production of, or acquisition of, the right to exhibit Canadian programs consistent with their financial and other resources. [*Report*, p. 471.]

Since that time, the Commission has had major licence renewals to decide, such as the CTV and Global networks, and has been somewhat more demanding than in the past on the subject of Canadian programming. In renewing the CTV licence in March of 1987, for example, the Commission did not accept initial promises of performance and required the network to increase substantially both its expenditures on Canadian programming and the number of hours of Canadian drama and other entertainment programming. [CRTC Decision 87-200.]

In the case of pay-TV and specialty services, conditions of licence have been relied upon more than ever to fulfil the objectives of the *Broadcasting Act*, since each service is distinct from the others.

The supervisory role of the CRTC has also been critical in developing the Canadian Association of Broadcasters' Broadcast Code for Advertising to Children and the Voluntary Code Regarding Sex-Role Portrayal in Television Programming. Development and improvement of these codes, and measures to make broadcasters accountable to the public for adherence to them, have been going forward through the eighties. Adherence to the codes is made a condition of licence, but many persons concerned with this issue feel that the codes have had far too limited an impact so far. Efforts have also been under way to develop broadcast councils, similar to press councils, which would give members of the public an opportunity to have their complaints heard and assessed in a judicial atmosphere.

3.2.4 Regulation of Community Television

Its policy for community television was set out by the CRTC in 1975 and has not been reviewed since. As the summary in the Task Force Report indicated [*Report*, p. 495], the Commission views community programming through a dedicated channel as a social commitment of the cable licensee — a return to the public for the advantages of a cable licence. Cable operators are expected to offer coverage of events of local interest, such as municipal council or school board meetings, and school and community activities. They are also expected to provide an opportunity for various groups in the community, including ethnic groups, to express themselves.

It is understood that cable operators will supply at least some of the resources necessary to produce community programming. In 1986 limited advertising was allowed on the community channel in order to improve programming but serious concerns have been expressed about fragmentation of markets, and loss of revenue to other media. All advertising revenues are expected to be accounted for separately and put back into the community channel.

At the time of licence renewal the CRTC regularly examines the cable operator's performance in relation to the community channel. However, there is no set of rules for allocating expenditures to the channel; an omission which we feel hampers a proper evaluation.

Very little of this policy has been incorporated into regulation. The new cable regulations of 1986 require all but Part III operators (those serving remote or underserved areas) to provide a community channel. Operators are also required to keep programming logs for the channel. Other than these obligations, there are enabling provisions with respect to contra, credit and sponsorship advertising. There are also provisions for the use of the community channel when community programming is not being distributed.

The importance of the CRTC as licenser, regulator, and supervisor in recent years can hardly be overstated. In the absence of new legislation that would have provided for an appropriate role for government in the development of broadcasting policy, the CRTC has been the policy-maker, guided by the 1968 *Broadcasting Act* and responding as it saw fit to the recommendations of Task Forces and Parliamentary Committees, the views of government, and the ever-present pressures from the industries it regulates. Even with provision for policy direction from government such direction should only relate to broad policy matters, leaving the Commission with responsibility on an on-going basis to license and regulate the system based on the objectives in the new act. While the CRTC will not be able to achieve these goals effectively on its own, since it will require a complementary effort through other Government initiatives, every aspect of Commission policy must reflect and advance broadcasting policy objectives.

3.3 CBC Television

3.3.1 Introduction

The Committee stated in its Sixth Report that "many of the needs Canadians have for their own programming can be met only through the CBC". [Sixth Report, p. 54.] In relation to television specifically the August, 1985 Report of the Study Team on Culture and Communications of the Task Force on Program Review (Nielson Task Force), concluded that "the economics of English-language television in Canada seem to indicate that only the public sector, and principally the public network, can redress the balance of Canadian programming". [Canada, Task Force on Program Review, *Culture and Communications*, A Study Team Report to the Task Force on Program Review, Ottawa 1985, p. 259.] The Committee believes this conclusion is equally applicable to French-language television. After a more extensive review the Task Force on Broadcasting Policy reached the same conclusion, stating that "the major burden will inevitably fall to the CBC and it is upon the CBC that we must rely for an abundance of compelling radio and television — by, for and about Canadians". [*Report*, p. 270.]

As in the case of CBC Radio, the Committee's assessment of policy options for CBC Television reflects the legislative mandate we believe the CBC should have under new legislation. We want a CBC that is more Canadian in its programming content; that provides a balance of Canadian programming of information, enlightenment and entertainment; and that offers programming in French and English which responds to the specific needs of all regions of Canada, and actively helps to link all Canadians wherever they live.

The Committee's judgement is that to affirm this mandate in a serious way is to reject any centralist or centralized vision of the CBC. Our extensive consultations confirmed the fact that if the CBC is to function as a genuinely national broadcasting service then it must be rooted firmly in all regions of Canada. If the CBC ignores the regional nature of the country, its relevance, importance and effectiveness as a national public broadcasting service will be reduced.

In the following section we look at the analysis and recommendations of the Task Force in the light of the comments the Committee received on these proposals and our assessment of alternatives. We have given particular attention to issues raised by the Minister of Communications and to the policy suggestions and research provided to us by the Minister.

3.3.2 The Context

Television broadcasting in Canada is in the midst of fundamental change. Inevitably, these changes create pressures on the CBC to redefine its role. Canadians generally have an increasing number of television channels available, and yet, as we saw in 3.1 above, an increasing amount of the programming available is from outside Canada, mainly from the United States. It makes sense to see the CBC increasingly as a vehicle for providing Canadian programming, and we have proposed that a new broadcasting act reflect that goal and provide a basis for a greater contribution by private broadcasters toward achieving Canadian programming goals.

The concern to create a more Canadian CBC is not new. In fact, it was a central objective of the 1983 government policy for the CBC to increase Canadian content in peak viewing hours on its French and English television networks to 80 percent over a five-year period. [Department of Communications, *Building for the Future: Towards a Distinctive CBC*, Minister of Supply and Services Canada, October, 1983, p. 13.] Furthermore, the 1983 policy statement went on to add that there ought to be "rises in the level of Canadian programming outside of peak viewing time" and that the CBC ought to maintain present high levels on CBC regional programming services. The cost implications of this objective for CBC television were acknowledged: "The Government of Canada recognizes that it will be costly for the CBC to meet the targets for Canadian television programming set forth above. While these targets may only be achieved as public funds become available, the government expects the Corporation to find additional resources through continued improvement in its efficiency and through internal reallocation."

In fact, the CBC has succeeded in increasing Canadian content in prime time on both the French and English networks to 80 percent since 1983, although only 57 percent of the total English network feed and 64 percent of the French was Canadian in 1986-87. However, it has not done so while maintaining service to the regions, as the original five-year plan anticipated. In fact, as Table 3.9 indicates, the proportion of the CBC's television programming budget that went to regional production declined from just over a third in 1981-82 (34.2 percent) to just under a quarter in the current year, with the bulk of that decline coming between 1984-85 and 1986-87.

Table 3.9 Allocation of CBC Television Program Budget between Network and Regional Programming, 1981-1982 to 1988-1989

($ millions)

	Network			Regional		
	Current $	**Constant ^{1}**	**%**	**Current $**	**Constant ^{1}**	**%**
1981-82	262.8	262.8	65.8	136.5	136.5	34.2
1982-83	304.4	274.8	67.0	150.0	135.4	33.0
1983-84	335.1	285.9	66.4	169.4	144.5	33.6
1984-85	384.0	314.0	68.2	179.4	146.7	31.8
1985-86			not available			
1986-87	413.4	312.2	76.0	130.5	98.5	24.0
1987-88	432.5	313.0	75.8	137.7	99.7	24.2
1988-89	438.8	--	75.5	142.8	--	24.5

(1) Deflated using the CPI
Sources: CBC Annual Reports, 1981-82 to 1986-87,
Main Estimates, Government of Canada 1987-88 and 1988-89.

This significant shift in priorities for CBC television needs to be seen in the context of the reductions in the resources available to the Corporation. Between 1984-85 and 1988-89 the CBC's total operating appropriation in constant dollars declined by 15 percent, from $808.5 million to $688.9 million. While the CBC was able to increase its earned revenues (largely from increased television advertising) in constant dollars from $228.5 million to $265.4 million over this period, this increase offset only a fraction of the reduced appropriation. In constant dollars the CBC's expenditures on network programming have increased by 18.8 percent between 1981-82 and 1987-88, from $262.8 million to $312.2 million, while expenditures on regional production have declined 27.8 percent from $136.5 million to $98.5 million.

A full assessment of the financial situation of the CBC in the period beginning in 1983-84 must also recognize that the Corporation has benefitted in its ability to provide Canadian programming on its television services from public funds available through Telefilm Canada. While these funds are not directly available to the CBC, half of the money available through the

Canadian Broadcast Program Development Fund (Broadcast Fund) is available to independent producers who are selling their productions to the CBC. The result is that CBC can acquire such programs for less than their cost of production, since up to 49 percent of their production costs may be covered by Telefilm Canada. In 1984-85, the first full year of operation, producers could have access to up to $27 million from the Fund for projects for the CBC; in 1988-89 the amount will be about $35 million in current dollars. If these funds are taken into account, and it is recognized that the vast majority of such projects produced for CBC were done for the network and not the regions, then the shift in funds available for television programming on CBC from the regions to the network would be greater than Table 3.9 suggests.

Throughout the Committee's extensive meetings across Canada the evidence of sharp reductions in regional programming budgets within the CBC was unavoidable. Two messages were clear: first that the CBC had reduced substantially the amount of time to which the Corporation's regional stations had access, with the network taking over in prime time what had previously been regionally programmed time slots; and, second, that the resources available to the regions had been reduced so much that they could no longer fill these time slots.

In each location where the Committee held hearings it met the managers of CBC regional operations. In Alberta, the CBC manager noted that that province's CBC services had been reduced and that it was less able to develop new talent, present variety programming and work with independent producers. The managers of CBC operations in other provinces said the same.

In Halifax the CBC reported that it no longer had a variety department and that the kind of talent development that had occurred in the past through programs such as Singalong Jubilee and Don Messer, which had led to the development of performers such as Anne Murray, Catherine MacKinnon and Marg Osborne, was not possible now.

What has continued in the regions, at least in English language television, is strong supper hour news and information programs and a local late evening newscast. In French, the regional television operations have also seen a reduction in their already limited ability to produce even news programming. One of the witnesses representing French regional stations stated that:

> It is important that the networks be protected. We agree with that, but the fact that the networks are protected means that we are less protected. There is a tendency to cut back the regional stations to make the networks stronger. If we are not careful, we will become nothing more than press offices. [*Minutes*, 43:30.]

The CBC's decision to allocate resources to the networks rather than to the regions is reflected in the following quote from CBC's capital plan for the next five years:

> It appears at the moment that there will never be sufficient funding to produce the type and quality of programs Canadians expect from CBC's regional centres. Therefore, they are being transformed to operate on a very flexible basis with relatively low capital investment. [CBC, *CBC's Capital Investment Trends*, p. 4.]

It is in this context that the Committee has examined issues related to CBC television, including the recommendations of the Task Force, the proposals of the Minister, and the CBC's own plans to move to 95 percent Canadian content on the English television network schedule by 1991-92. The role CBC should play in Canadian life must dictate its infrastructure needs, resource allocations and programming strategy. For example, the CBC does not need regional French or English stations if it is not going to be actively involved in producing programs in the regions.

In her written response to the Committee's questions the Minister of Communications stated that

> ...there is no doubt that the CBC has a mandate obligation to reflect the regions both to themselves and to the country at large...
>
> The Task Force and your Committee have reiterated that principle and I would hope the CBC... could concentrate on that regional mandate in a manner which... goes well beyond that undertaken by the local private stations. [Response by the Minister, November 1987, p. 31.]

Reflecting the regions to themselves requires that both air time and resources be available to the regional stations of the CBC. In such cases the decisions about programming are usually taken in the regions themselves, based on the regional manager's understanding of the unique character, needs and interests of the region and the talent available. Table 3.9 tracks the CBC's declining capacity to perform that role over the past few years.

The CBC's regional operations have a double mandate: to serve the region's own needs for information and cultural development and, by providing programming to the national network, to ensure that the region is reflected to all of Canada. Commenting on the importance of maintaining both functions, Al Johnson, former President of the CBC and representing the Canadian Broadcasting League, said:

> I think that for the public broadcasting service to have to reconcile itself to being a network service would be a little like saying let us have a Canada without the provinces. [*Minutes*, 60:15.]

Commenting further on the role of the CBC in the regions themselves, Mr. Johnson said:

> I would like to see in the longer run a good deal more emphasis given to the developmental aspects of regional programming... the talent development. On a national network, in any country in the world, you are striving for excellence and you are bound to hire the best professionals, the most highly developed artists.
>
> But to get the highly developed artists and professionals and performers you have to make an investment... regional programming should be regarded as that investment in the development of great Canadian performers in the future. [*Minutes*, 60:21.]

Other witnesses made the same argument about the need for the CBC to play a regional development role requiring a steady level of production. Often programs have been produced only for the region initially and then, if successful, given additional resources for development as network programs. Part of that developmental role involves working with independent producers in the regions.

The CBC's Atlantic Region manager provided the following comments on the implications of reductions to regional program budgets:

> What is really in jeopardy right now is our local broadcasting in places like Sidney and Charlottetown in the smallest parts of the country.
>
> The next tier of programming is that which the region does for the whole region... We do less of it in prime time than we used to. I think it is regrettable....
>
> Ultimately, it will jeopardize our ability... to program for the country as a whole. It is my strong belief that programs strongly rooted in local communities are the ones that will paradoxically work nationally and even internationally. [*Minutes*, 47:95.]

Provincial government representatives who appeared before the Committee emphasized the importance of the role of the CBC in the regions. A representative of the Nova Scotia Government, for example, noted that "One of the main problems our local film industry has is gaining access to CBC time and money for productions" [*Minutes*, 47:6.] A senior Saskatchewan Government official noted that "no matter what the province does, if we do not have the nucleus being CBC... it just will not (succeed). [*Minutes*, 44:24.]

All of the recommendations the Committee makes on CBC television reflect rejection of the trend to scale down the role of the CBC in serving the regions of Canada. However, we note that if that trend were to continue then changes in the CBC infrastructure of regional stations might well be sensible to reflect that policy decision.

3.3.3 Canadianization of CBC Networks

The Task Force recommended that the CBC phase out the use of commercial American television programs which are readily available on other networks, when adequate funds were available to permit their replacement with attractive and distinctive Canadian programming. The Committee addressed this issue in relation to the drafting of broadcasting legislation in its Sixth Report, noting the CBC's concern that insofar as it scheduled non-Canadian programs it should be left free to buy the best foreign programs and not just what was left after other broadcasters had made their selections. At that time we stated that the CBC should not be limited in its selection of foreign programs. [*Minutes*, 36:50.]

Recommendation 25

> Insofar as the CBC does carry foreign programs, it should not be precluded from carrying commercial American programming, provided such programs are of high quality and consistent with the overall character of the CBC service.

On the issue of Canadianizing the CBC service the Task Force made no explicit recommendation, beyond noting that further Canadianization should not be attempted unless the necessary funds were available. However, the Task Force did state its view that "CBC's English and French networks must both be part of a programming renaissance in Canadian television", and set out to examine the cost of increased levels of Canadian programming. Specifically, the Task Force estimated the annual direct costs to CBC of increasing Canadian content in peak viewing on both French and English television networks as follows:

- to 85 percent: $10-12 million
- to 90 percent: $20-24 million
- to 95 percent: $30-36 million

These cost calculations ignored the possibility that as it replaced established big budget American programs with more moderately budgeted, new Canadian programs the CBC might lose viewers and thus advertising revenue. Also overlooked was the fact that all of the new Canadian programs would have Broadcast Fund support and, therefore, would involve a further cost to the federal government. Taking account of these additional costs the Task Force estimated that the costs could be as high as $30 million to $40 million to increase Canadian content to 85 percent; $60 million to $80 million to increase it to 90 percent; and $90 million to $120 million to effect a 95 percent increase. The additional cost of Canadianizing network programming outside the 7:00 p.m. to 11:00 p.m. time period were estimated at $15 million to $20 million.

Without making a specific recommendation the Task Force went on to state that:

> In our view that expenditure would be amply justified and is vital to any serious effort to redress the programming imbalance that now exists in English television and to build for the future in French television on the strong existing base of Canadian production. [*Report*, p. 676.]

The Task Force reiterated its concern that the "CBC should make no commitment to any level of Canadianization, without being certain that the funds are available", noting that "the worst thing that could be done would be to spread resources too thinly to produce attractive programs". [*Report*, p. 676.] Finally, the Task Force did not argue that Canadianization of the networks should proceed at the expense of reflecting the regions to themselves, or extension of CBC service, or other CBC objectives. In fact, the Task Force made recommendations related to extension of service, and stated that "We wish to see an expansion of production activity in the regions, both for the regions themselves and for the network". [*Report*, p. 666.]

Since the Task Force Report was tabled the CBC has made policy decisions related to the programming provided on its television networks. The CBC's five-year plan, which has been approved by the Corporation's Board of Directors, notes that the English network plan includes the following:

- 95 percent Canadian content by 1990-91
- a substantial increase in regional contributions to the network
- the removal of most prime time commercial American programs from the schedule by 1990-91.

The French television network plan provides for the following:

- maintaining its Canadian content level of 80 percent in prime time
- significantly improving the quality of drama, especially of téléromans
- increasing regional contributions to the network.

The Committee pursued with the CBC the question of how it proposed to finance the increased level of Canadian programming on the English network. While we did not receive a precise response, we were advised that the Corporation expects to finance increased Canadian programming to a significant degree through a further shift of resources from production for the regions to production for the network. In other words, there will be an increase in production in the regions for the network but an additional cut in the resources available to reflect the region to itself.

While the Committee supports the goal of some further Canadianization of the CBC network schedules we have a number of concerns. We do not believe that an additional Canadianization of the networks should be financed by more cuts in the resources available to CBC regional stations to reflect the regions to themselves. The CBC's programming strategy must balance the various objectives the CBC is asked to serve, within the resources available.

The Committee notes that the CBC's five-year plan indicates that program inventories are unusually low and that there has been an increase in repeats. In response to questions from the Committee, the CBC stated that "In the current season (1987-88) the CBC's English TV network schedule shows perhaps the highest level of repeats in recent memory," with all major series including reruns and repeats for other seasons being shown in prime time. In the case of the French network 32 percent of programming was repeated material in 1986-87, 36 percent in 1987-88 and the ratio for 1988-89 is expected to be 43 percent.

The Committee has absolutely no wish to downplay the need for the CBC to play the central role in providing Canadian programs, particularly in prime time. We saw in Section 3.1 above how dependent on the CBC Canadians are, particularly, but by no means exclusively, in English television for financing Canadian programs and providing them in prime time. In 1986 the CBC accounted for 61 percent of all viewing of Canadian programs between 7 p.m. and 11 p.m. — almost the same as the 60 percent accounted for in French television by the CBC service. While we commend the CBC for its obvious concern to Canadianize the network, we cannot agree that this should be done by increasingly centralizing resources and control over programming decisions.

The Committee shares the Task Force view that the further Canadianization of CBC television is a vitally important goal. We urge the government to consider assisting in financing a further Canadianization of the network but only in the context of the other goals set for CBC in the act.

Recommendation 26

> The CBC should provide with the additional funds required to proceed with a further Canadianization of its network services while maintaining adequate program budgets and without sacrificing service to the regions.

The Committee strongly supports the CBC's move to acquire more of its network programming from the regions. However, this represents only a part of the CBC's regional mandate — that of reflecting the regions to a national audience. We believe this cannot be fulfilled unless there is an ongoing commitment to talent development and production within each region for the region itself. If this balance is not maintained, there is a real danger that the productions made in the regions for the networks will involve little more than shooting projects initiated by producers in central

Canada in locations throughout the country. That is clearly not the intent of the existing legislation or the proposed new law.

3.3.4 Role of the CBC in Regional Production

In its December, 1985 submission to the Task Force, the CBC stated that

> Our roots lie in the regions of Canada. Our programming must reflect that reality at both the local and national levels as we program about the regions to the regions, on the regional stations, and to the nation as a whole on the networks.
>
> ... No other country has invested so much in developing an international network/regional public broadcasting system.
>
> A regional service has a triple role in serving a community:
>
> - It provides information and entertainment from within the region, for the region;
> - It looks at national issues from a regional point of view;
> - It provides a reflection of the region to the network for a national audience. [CBC, *Let's Do It*, A Vision of Canadian Broadcasting proposed by the CBC to the Task Force on Broadcasting Policy, December, 1985, p. 38.]

The CBC further stated that "now the CBC must do more and better, especially on television" and "the CBC must make a new commitment to regionalism". [*Let's Do It*, p. 38.]

Commenting on the CBC's performance in serving the regions the Task Force noted that

> Reallocation of budget resources and changes in management structure in recent years — in other words a continual whittling away of the regions as a priority... — have resulted in a CBC whose regional stations produce programs which are rarely seen on the national network. [*Report*, p. 304.]

The Task Force noted that "If further nibbles are taken from the regions, they will soon not be able to deliver even their supper hour news shows". [*Report*, p. 305.] Part of the response proposed was that "the regions must have access to more of the time now allocated to the network schedule". In addition, "There must be more regional performance programming produced for the region itself." [*Report*, p. 305.] The term "performance programming" is used in the Report to include all categories of drama (feature films, "mini-series", police and detective series, theatre, etc.), as well as comedy, variety and music. While the Task Force declined to suggest precise scheduling or number of hours, its Report emphasized that "we want the principle of significant time for the purpose of telecasting regional performance programming to be firmly established". [*Report*, p. 305.]

Based on the evidence the Committee heard and our own vision of the role of the CBC, we agree with the Task Force that the CBC should provide more air time for regional programming and should telecast a significant amount of performance programming in each region. We note that the CBC stations have a regional exchange system which has permitted such productions to be aired in other parts of Canada without being part of the national network service. The proposals we present here are complemented by the recommendations later in this report concerning CBC's service to official language minority communities across Canada.

Recommendation 27

> The CBC should provide increased air time on its regional stations for carriage of regional programming and should include a significant amount of regional performance programming.

The Committee notes as well its agreement with the Task Force that CBC stations should continue to provide local news, both supper-hour and late evening versions.

Recommendation 28

> The CBC should continue at a minimum to provide locally generated newscasts on its owned and operated stations.

While most Canadians believe the CBC should be a vehicle of "regional" expression, some feel that it should not be engaged in "local" production, as though a line could easily be drawn between the two. In its written responses to our questions, the CRTC said it does not make a formal distinction between regional and local programming. Northrop Frye certainly did not draw such a line when he wrote, "Identity is local and regional, rooted in the imagination and in works of culture..." [*The Bush Garden:*

Essays on the Canadian Imagination, Preface, p. ii; Toronto, House of Anansi, 1971.]

It is difficult to imagine, for example, how a supper-hour program could be done in Halifax that did not cover any "local" Halifax stories but instead dealt only with "regional" Atlantic Canada or Maritime stories. The conceptual flaw is the premise that local and regional can be separated; in fact, Halifax is an essential part of the Altantic region. Local programming is simply a part of regional programming, and often a central part. The practical flaw from the perspective of television viewers is that they each watch only one supper hour show or late night newscast and expect it to tell them about both local and regional stories. Providing that service is a vital part of the way the CBC remains linked to the basic realities of life across a large and diverse country.

Recommendation 29

> The CBC's mandate to serve the needs of all regions of Canada should continue to be interpreted as including the coverage of local news, community events and other appropriate subject matter. There should be no effort to make an artificial distinction between local and regional programming for the purpose of limiting the CBC's role in serving Canadians in all regions.

The Northern Service region of the CBC, which includes Yukon, the Northwest Territories and Arctic Quebec, does not have an adequate regional television service. CBC viewers in the Northern Service region get less than 10 percent of the amount of regional programming provided by the CBC and its affiliates in other regions of Canada. In the CRTC renewal of the CBC television network licences, [Decision CRTC 87-140, 23 February, 1987] the Commission expressed concern over the absence of a regular Northern newscast. As the Committee heard in its meeting with the CBC Northern Service, the Eastern Arctic receives CBC's regional news originated from St-John's, Newfoundland, while the Western Arctic receives the Vancouver service.

The existence of a CBC Northern Service dates back to the response of the government to a recommendation of the 1957 Royal Commission on Broadcasting that a special service be established to meet more fully the needs of northern residents. Parliament voted a special appropriation to the CBC to establish such a service in 1958. The existing Northern Service continues to be involved largely in radio, producing 230 hours of programming a week; half of it in aboriginal languages. In the case of television, the CBC was given funds through the Accelerated Coverage Program to extend its signal into the North but was not provided with funds to provide programming.

In order to develop a northern regional television service, the Northern Service would need to increase its television production staff and facilities, obtain access to satellite uplinks at several northern locations and lease a satellite transponder for the service. A full regional television operation would increase the Northern Service's budget by more than $3 million annually.

Not only would a CBC northern regional television service provide northerners with relevant regional news, it would also provide opportunities to make the North better known to all Canadians. The Committee notes that as an important part of Canada's cultural fabric and identity, the North should be better reflected to Canadians in all parts of Canada. This view was stated in a number of submissions to the Committee.

The CRTC has pointed out another potential advantage of a northern regional television service. Because it would require a dedicated satellite transponder, it could lead to increased native access opportunities when necessary ground stations and second transmitters were installed. [CRTC, *Public Notice 1985-274*, pp. 28-29]. Such a service could also accommodate programming from sources other than the CBC and the native communication societies, such as the two territorial governments. Given the many potential benefits of the service, the Committee supports the development of a CBC northern regional television service.

Recommendation 30

> The CBC should be provided with the funds to establish a northern regional television service.

There is one other area where the CBC service is significantly incomplete. The province of New Brunswick does not have an English-language station at present but is served only through an agreement under which the CBC originates a supper hour program which is inserted into the signal of CHSJ, the affiliated station in Saint John.

On this issue the Task Force recommended that efforts be made by the CBC to up-grade its service in New Brunswick through the construction of new transmitters and facilities, with a goal of ensuring high quality local and regional newscasts and the widest possible availability of the full English television network service. The Task Force noted that "Annual operating costs for transmission would be roughly $1.5 million, which might be offset by the savings realized in terminating the present distribution agreement". Since that time substantial progress has been made toward achieving the second goal of improved access to the CBC network service in New Brunswick. The New Brunswick affiliate, CHSJ will begin to carry almost all of the CBC's network service.

While this is a significant improvement, it does not address the issue of providing for CBC programming that reflects the region itself or for input from the region into the network. The Committee explored with the CBC's Atlantic regional manager the reasons for continuing dissatisfaction. He described the effects of this situation as follows:

> The first and most obvious effect is that we produce only the supper hour show... We have no ancillary news programs and we have no other kind of programming produced in New Brunswick except what is produced on a per occasion basis from our regional base in Halifax. [Minutes, 48:93.]

The CBC's regional manager indicated that the capital costs involved in establishing a full production centre and station in New Brunswick would be between $10 million and $12 million, and that establishing such a station would result in a net reduction of approximately $2 million a year in operating costs.

While recognizing the improvement in CBC network carriage, the Government of New Brunswick has continued to complain of second class status in CBC service, as the only province in Canada without at least one CBC English-language television station. The Committee agrees that New Brunswick should have a CBC owned and operated station.

Recommendation 31

Priority should be given to providing a full CBC English-language production centre and broadcasting station in New Brunswick.

3.3.5 Concentration of Regional Production Activity

At present the CBC has 18 English-language stations, all of which are significant production locations, and 13 French-language stations. The extent of production activity carried out at these centres varies widely, depending on such factors as population, other stations in the province, and so on. Production is carried out primarily for the region itself, but also for the network. The CBC advised the Committee that in 1987-88 the English-language regional stations provided a total of 305 hours of programming to the network, with the amount varying from a high of 110 hours to a low of 1.5 hours. Most of the production in the regional stations is for the regions themselves. Programs produced in one station in a region may sometimes be carried simultaneously on another. For example, a program produced in the Regina CBC station may be carried on both the Regina and Saskatoon stations.

It is important to understand that the 18 English-language and 13 French-language stations are not in all cases completely separate operations. In a number of locations, they share facilities, equipment and services.

Examining this pattern of regional production, the Task Force concluded that "It is not possible for every CBC station to function as a large-scale production facility", but "It is possible, however, for every CBC station to continue providing local news, both supper hour and late-night versions". [*Report*, p. 305.] The Task Force decided that to provide additional air-time for the regions and expand the production of performance programming for the regions themselves, only selected English and French centres should be involved "in the production of major programs of all types, primarily for regional but also for national exposure". [*Report*, p. 305-6.]

The Task Force proposed creating five English-language regions, with all programming other than news, information and sports concentrated in Vancouver, Winnipeg, Toronto, Montreal and Halifax. In CBC's French-language television service the cities identified were Montreal, Quebec City, Moncton and Ottawa. The CBC's staff and facilities in other locations might then be scaled down somewhat, with the resulting saving transferred to the designated regional production centres.

This recommendation proved to be extremely controversal in the public hearings the Committee held. We believe the concern expressed was to a significant degree increased by the fact that the proposal was being considered in the context of sharply reduced resources in the regions. The reallocation of funds from smaller stations to larger would have come in addition to the reductions stations had already experienced. Even without this factor, the Committee would clearly have heard strong opposition.

The proposal was based on efficiency. It would concentrate resources within the regions to provide performance programming. The real issue, however, is whether it would result in greater efficiency at a significant cost to CBC's ability to do its job of developing talent across Canada and reflecting all aspects of life in Canada's regions.

The complaints the Committee heard came from many quarters: from people in Newfoundland who believed that their ability to create their own programs would be affected if Halifax became the centre; from francophone minorities outside Quebec concerned that their local CBC station would not be able to carry a music concert variety show or any cultural event originating in their community; from people in Saskatchewan unwilling to have to depend on the Winnipeg CBC station for performance programming of all kinds; from people in Windsor for whom CBC has a special importance; and so on.

The challenge is to find an approach to running the CBC that balances the Corporation's need to be close to Canadians throughout the country against the desire to make effective use of the available resources. The Committee believes that the Task Force approach is unnecessarily rigid and abstract and would reduce the CBC's ability to perform its cultural role effectively, without achieving substantial savings. The exclusion of all francophone stations in Western or Atlantic Canada from any involvement whatsoever in programs other than news and information seems undesirable. Similarly, to preclude all CBC stations in Alberta, Saskatchewan, Newfoundland, and Prince Edward Island from any involvement in performance programs fails to reflect the nature of Canada. Nevertheless, it clearly would be extremely expensive for the CBC to operate full production centres in every location, and would make no sense in smaller centres where the resources simply do not exist to permit extensive production.

The regions of Canada differ so extensively from one another that the Committee believes it would be unwise to impose a rigid pattern in the allocation of production. Such decisions can best be made by the CBC itself, based on experience, and the CRTC has a role as licensing authority for both the CBC and its networks. All such questions are, however, of largely abstract interest unless the proposed expansion of regional production actually occurs.

Recommendation 32

> No prior limits should be placed on the types of programming that can be originated in each of the CBC's English-language and French-language stations. While it must be recognized that staffing levels and facilities will differ significantly from station to station, the CBC should make such decisions, subject to CRTC review and the provision of the required capital funding from the government. Decisions should reflect a balance between a concern with efficiency and the need effectively to fulfil CBC's mandate to reflect and serve all regions of Canada.

3.3.6 Other Issues Related to CBC Programming

In its comments on CBC's French-language television service the Task Force expressed concern that the news coverage of the Atlantic provinces should be improved, out of Moncton, by opening news bureaus in other parts of the region. The Task Force also recommended that the CBC's French television service be reorganized within Quebec, with news and information services being supported by "a more extensive and equitable network of journalistic staff throughout the main regions of the province". The CBC advised the Committee that it would cost approximately $700,000 in direct costs to add news bureaus in Trois-Rivières, Sherbrooke, Rivière du Loup and Abitibi. The Committee notes that it heard comparable concerns expressed about English-language news coverage. This concern was expressed strongly, for example, in London, Ontario, where, in spite of the large population in the region, there are neither CBC radio nor CBC television stations.

Recommendation 33

> In its news and information programming CBC should use its resources in a way that will provide as extensive and equitable coverage as possible.

In his presentations to the Committee Mr. Franklin Delaney, vice-president of CBC's French television service, stated that their problem was not one of increasing the quantity of Canadian content, but rather one of raising quality. The French CBC network needs to avoid losing francophone viewers to English-language TV or to other French networks offering a larger proportion of dubbed American programming. To some extent these viewers, increasingly bilingual and with increased access to cable and the large number of choices offered, seek the higher-budget programs found on English-language TV. The arrival of a third commercial French TV network has provided these viewers with a greater overall quantity of Canadian content to choose from as well as a greater quantity of dubbed American programming. This may provide a temporary relief in the cross-over viewing trend of the last few years.

The appeal of American programming, whether dubbed into French or in English, is putting pressure on the French CBC TV network to increase drama production budgets. To withstand the competition, more and more programs with a production style and budget of the "Lance et compte" type — which draws an audience of 2.5 million viewers — will need to be produced. The cost of this type of program is very high, sometimes reaching $1 million an hour, or about ten times the cost of traditional domestic drama, and 50 times the cost of acquiring an American series dubbed into French. Without increases in its program budgets the CBC French TV network will be faced with the choice of increasing drama production budgets at the expense of other program categories or of asking to be relieved of its high prime time Canadian content quota in order to purchase a greater number of lower cost, dubbed American programs. If the French CBC television network is to play a cultural role in providing Canadian content of high quality, adequate production budgets must be provided.

Figures in the Task Force Report indicated a general gap between the average hourly production costs of the English and French CBC networks. [*Report*, p. 252.] Updated figures for 1985-86 still show a significant gap: for example, the average hourly cost for drama production in 1985-86 is

$120,000 for the French network and $374,000 for the English. This is partly because the French network produces more hours of drama than the English. While the Committee agrees that many factors will continue to contribute to differences in average hourly production costs, it believes that budgets for in-house and independent productions for CBC (excluding purchase costs of foreign productions) should be progressively re-aligned to account for the changing market forces in the French television environment. Accordingly, the Committee endorses the Task Force recommendation.

Recommendation 34

> CBC French network budgets should be reviewed to establish hourly production costs that reflect the role assigned to the French network in the increasingly competitive television environment, so that the quality of the Canadian programs of the English and French networks would be comparable.

We noted that the CBC now acquires productions from independent producers supported by the Broadcast Fund administered by Telefilm Canada. Such productions in some cases involve the National Film Board, as well as provincial funding agencies. A significant increase in the use of independent productions by the CBC has resulted, although we note that the CBC had always been the broadcasting industry leader in dealing with independent producers.

The 1983 broadcasting policy, of which the Broadcast Fund was a part, set a goal under which 50 percent of the CBC's Canadian programming other than news, information and sports would be acquired from independent producers. In its examination of this issue the Task Force concluded that, although it could find no evidence that there were any cost advantages to purchasing from independent producers, a more competitive relationship between the CBC and independent producers stimulates creative efforts. The Task Force endorsed the 50-50 target but emphasized that the CBC's involvement with independent producers must be a part of its approach to fulfilling its programming mandate from Parliament, and not simply a matter of playing a role in industry development. The programs purchased should contribute to the expression of Canadian identity.

The Committee agreed with the Task Force recommendation on this issue. However, we return in Chapter 5 to the issue of the Corporation's relationship with independent producers in looking at the question of whether government support for Canadian programming is being delivered efficiently.

Recommendation 35

> The CBC should pursue its policy of cooperation with private producers whereby 50 percent of television programming apart from news, information and sports will be independently produced. It should be understood that the goal is the creation of a diversity of genuinely Canadian programs, not merely pursuit of an industrial policy aimed at fostering the growth of the production industry.

Program production for minority interests, in both the public and private sector and on both radio and television, is taken up in Chapter 6 of this Report. The French-language minorities outside Quebec and the English-language minorities within Quebec are both served by special programming on CBC-TV. The Corporation's duty to produce programs in French and English would be extended to representative aboriginal languages where numbers warrant, and as funds become available, under a recommendation of the Task Force endorsed in our Sixth Report. The Committee also agrees with the Task Force that the CBC should not be required to broadcast in other heritage languages, but should rather be required to give Canada's multicultural composition appropriate representation in mainstream programming and in its personnel policies. These questions are addressed more fully in Chapter 6.

3.3.7 Availability of CBC-TV Services and Programs

From its beginning, the CBC has relied in part on the private sector to deliver its services throughout the country. In CBC radio, this reliance has diminished to almost nothing, just as reliance on advertising has been eliminated. In CBC television, on the other hand, reliance on affiliated private stations to make programming available remains important, just as private sector advertising revenue remains important to produce it.

The Committee has two distinct but related issues to consider in connection with distribution of CBC television programming. First, there is the Task Force recommendation that the CBC either obtain agreement from affiliates to carry the full network TV service or look to other means of distribution. Second, the Committee has been asked by the Minister of Communications to examine whether there are ways in which the CBC might save money in its distribution infrastructure and put it into programming.

The Committee has looked into these two questions with the objective of assuring that CBC-TV, which is supported by all taxpayers, is made available to the largest possible proportion of the population, and that possibilities for diverting money to production that do not detract from achieving its mandated programming objectives are exploited.

CBC-TV DISTRIBUTION BY AFFILIATES

According to research conducted for the Committee, about 30 percent of the viewing of CBC network television is accounted for by 31 affiliated private stations, of which 26 are English-language and five French-language. Nineteen of these stations are the only ones in their community.

Most of Canada's larger and more densely populated centres receive CBC television from another 31 stations owned and operated by the Corporation. The affiliates typically serve smaller cities and their sometimes extensive but sparsely populated hinterlands. Nevertheless, there are some fairly large stations, and they are the ones with the strongest incentive to reduce carriage of CBC programming.

First, however, virtually all stations have a market incentive to purchase programs with commercial space and carry them instead of CBC programs that have no advertising and are designated as optional for carriage. This can include children's programs and certain performing arts and drama productions.

Second, most affiliates prefer procured programs with broad popular appeal to the type of CBC program that, although advertised and available to the affiliates without charge, is intended for audiences not fully served by other networks. This market incentive is especially strong among the larger English-language affiliates which typically decline to broadcast much of the CBC's non-reserved or optional programs. Another practice is for affiliates to reschedule network programs — timeshift them — to off-peak periods while filling the peak slots with U.S. programs.

The French-language affiliates, with a stronger appetite for Canadian-produced programming, are better clients. Robert Bonneau, president of the National Advisory Council Committee of CBC affiliates, told us that "Canadianization of programming is 99 percent of the time good news for the French network. It implies successes and high ratings." [*Minutes*, 63:19.] In the 1986-87 program year, the French TV affiliates carried an average of 86 percent of the full CBC schedule, while the English affiliates carried an average 77 percent. The French affiliates' performance varied from carrying a low of 84 hours a week to a high of 104 out of a total network service of 109.5 hours; the English affiliates varied from 55 hours to 87 hours out of a total network service of 89 hours a week.

The commercial advantage to affiliates in substituting American or other private programming for CBC network programs, especially where the affiliates are competing with other private stations, can also lead to pressures on the CBC to slow the pace of Canadianization. Affiliates also often resist CBC requests that they carry special events such as federal-provincial conferences and visits by foreign leaders.

Research has suggested, on the other hand, that the CBC could recover a good deal more from filling the advertising spots around its own programming than the payments it now makes to the affiliates to carry that programming. The smaller affiliated stations carry the most CBC programs and they do so for the lowest cash payments and the least amount of foregone advertising revenue. The largest stations, on the other hand, carry the least and cost the most.

Internal CBC studies reveal that certain large TV affiliates could be economically replaced by UHF rebroadcasters with provision for local station identification, local news inserts in programming, and local advertising sales. At the same time, it is the larger stations that have the best chance of remaining commercially viable if they disaffiliate from the CBC. The middle-size stations are more dependent on the CBC. Smaller stations continue to provide the Corporation with an efficient distribution system and provide local programming that would be costly for the CBC to replace.

The need for action on the problem areas in relations with the affiliates has become more pressing owing to the increase in carriage of Canadian programming on the CBC's English network in prime time and the financial constraints that the Corporation must observe. The Corporation has been examining the merits of a more active approach to replacing affiliates and diverting the savings into better programming.

Research commissioned by the CBC suggests that the level of profitability of both its English and French TV affiliates is higher than that prevailing in most business sectors, though the degree of superiority was less pronounced for the French stations. At the same time, these profit levels were generally lower than for other Canadian TV stations.

Research commissioned by the CBC affiliates, while not disclosing levels of profit performance, indicated that the management of 25 of 31 stations believed they could only remain viable with continued CBC affiliation. The remaining six stations believed they could survive disaffiliation, but only at substantially reduced profit levels.

The Committee received firsthand testimony on many of the affiliate issues at a hearing in London where it heard from a station that is giving up its affiliation.

R.V. Elsden, president of CFPL Broadcasting Ltd., said:

> We have no quarrel with the new thrust of the CBC. However, as a private broadcast organization, we could not operate as an affiliate for long without a commercially viable program schedule. [*Minutes*, 54:37.]

CFPL and its associated station in Wingham, CKNX-TV, are disaffiliating from the CBC this year. They serve potential audiences of more than a million. Mr. Elsden said his organization had tried to interest the CBC in a twin-stick operation. Under this type of arrangement, the full CBC network service would be broadcast on a separate channel, on which the local programming would be supplied by the private station. But the CBC had not been interested and, "we were invited to leave". [*Minutes*, 54:38.]

Mr. Elsden said his area was more than 90 percent cabled and the CBC network service was not as popular as some of the programming being brought in. He said the revenue paid to the affiliate by the CBC is a percentage of the revenue earned in the affiliate's market over the private facilities the affiliate provides. "That is becoming less and less, and there is more and more demand of time," he said.

The president of the CBC, Pierre Juneau, did not disagree fundamentally with the views of Mr. Elsden. He said:

> All commissions of inquiry that I know of have recommended that the CBC one day replace its affiliated stations with its own. The reason is not hard to understand. A private station, affiliated or not, can only survive if it is profitable. Many CBC programs are broadcast to fulfill a mandate and not to make money. ... So there is clear conflict between the mandate and the cultural objectives of the CBC and the need for private stations to make a profit. [*Minutes*, 63:91-92.]

Mr. Juneau said it would not be more expensive for the CBC to have its own transmitters rather than rely on affiliates.

At the same time, it appears to the Committee that there are advantages to the CBC in retaining its association with the smaller affiliates which carry the largest proportion of network programming, but which may need more support in carrying the "different CBC" that is being forged. In any case, it would be unfair for the Corporation to abandon these stations in a way that would put them at risk.

Doug Garraway, a member of the Television Network Advisory Committee of the CBC, which represents the affiliates, told the Committee that the affiliates "save the CBC a significant investment in transmitters, station equipment, management and other overhead costs". He said the initial capital cost of replacing these facilities "would be prohibitive to the CBC". [*Minutes*, 63:7.] The affiliates provided about 27 percent of the CBC's francophone audience and 36 percent of its anglophone audience, he said.

Ken Clark, also a member of the advisory committee, described the impasse in negotiations between the CBC and the affiliates:

> The essential issue is compensation. The affiliates believe they are entitled to increased compensation. Although the affiliates are business entities operating in the private sector, the CBC has chosen to treat them as if they were a department of the CBC and to deny them proper compensation, referring in support of such denial to the recent financial difficulties experienced by the corporation. [*Minutes*, 63:8.]

The affiliates as a group were strongly opposed to the Task Force recommendation that CBC negotiate with them to carry the full CBC service. They want the CBC to purchase time in addition to the "reserve time" covered by present agreements.

The Committee believes the starting point for dealing with the affiliate question must be the principle that all Canadians are entitled to receive the services of the tax-supported Canadian Broadcasting Corporation. As the Task Force recommended, negotiations should proceed with the affiliates to this end and we endorse their recommendation below. Failing agreement that respects both CBC financial constraints and a reasonable profit for the affiliate, the CBC should end the affiliation and establish its own transmitters.

Recommendation 36

> The CBC should negotiate with its television affiliates to have them all phase in over time the full network schedule, without time-shifting, for what both sides deem to be reasonable compensation. Whenever an affiliate declines to do so, CBC should consider ensuring distribution by whatever means it sees fit, according to local market conditions.

Recommendation 37

> The CBC should make plans for the replacement of those stations that can be disaffiliated to the net financial advantage of the Corporation and can be expected to be viable economically on their own. The CRTC should not allow any transfers of related broadcast licenses pending the resolution of the status of these stations as CBC affiliates after August 31, 1989.

REVIEW OF OPTIONS FOR CBC DISTRIBUTION

The desirability of exploring ways to reduce CBC production and distribution costs and put the money into programming was covered extensively in the Committee's dialogue with the Minister of Communications, starting with the Government response in August to the Committee's earlier reports and continuing through an appearance by the Minister in September and her written answers in November to questions submitted by the Committee. Particular emphasis was given by the Minister to the point that:

> There is a fundamental assumption that there must be no reduction in the availability of the CBC's programming to Canadians. All options are predicated on Canadians still having full access to the existing CBC services. [Response by the

> Minister of Communications to Questions Raised by the Standing Committee on Communications and Culture, Further to the Minister's Appearance before the Committee on September 22, 1987; November 1987, p. 26.]

On March 31, 1988 the Minister sent the Committee a study on CBC production and distribution options commissioned by the Department of Communications which we referred to expert study.

The study commissioned by the Department of Communications examined six options for altering the CBC's production and distribution of programs. As well as commissioning our own examination of the study, we have had access to the CBC's appraisal of this study and earlier examination of these questions by the CBC itself. The Committee's own views on the six options follow.

1. The first option would put CBC plant, equipment, and other infrastructure under a separate public agency. The study projected no savings from such an arrangement and the Committee sees no point in pursuing it.

2. The second option would transfer CBC infrastructure to a private agency. This too, was not seen as offering a saving. Besides, it could make the Corporation excessively dependent on others.

3. The third option was based on satellite-to-cable distribution of the CBC service and cessation of over-the-air distribution. In the extreme case, the Corporation would retain only one production centre in English and one in French. Even if regional centres were retained, the service would reach only the two-thirds of Canadian households that are cable subscribers. In four provinces the proportion would be below a half of all households. The option therefore cannot be considered. As Communications Minister Flora MacDonald observed in her answers to questions:

> One can affirm from the existence of a Parliamentary appropriation for the CBC that as many Canadians as practically possible should be able to receive the signals of the national service without further payment. [Response by the Minister, November 1987.]

4. The fourth option envisaged sharing of transmitters between the CBC and private partners, with each providing part of the schedule. The volume of CBC programs would decline 50 percent from existing levels. The Committee agrees with the study group's decision to dismiss this option, since it departs so radically from the CBC's mandate.

5. The fifth option would combine satellite-to-cable delivery with a shared-transmission plan to reach non-cable-subscribers, mainly in the peak viewing hours. This plan is a confusing combination that would change the programming orientation of the CBC and make savings by enlisting the private sector. It would reduce the amount of network programming available to over-the-air viewers by about half. Our researcher, weighing the conflicting assessments of cost savings by the study team and the CBC, concluded that about $94 million a year might be redirected to programming, while foregone capital expenditures of $25 million annually might bring the total resources for redirection to $119 million a year. Owing to the alteration in the CBC service and its reduction for a third of the potential audience, however, the Committee could not accept this option.

6. Under the sixth option, the CBC would sell its regional production plant to private broadcasters but retain its broadcast licences and transmission facilities. That is, the CBC would contract with the private sector for production facilities but retain a transmitting capacity in a twin-stick operation with the private stations. We have not found it possible to arrive at a reasonable figure for savings under this plan, which the study estimates at $84 million to $199 million in operating expenses and at least $23 million a year in capital, while the CBC claims there would be a loss of $9.5 million a year. The Committee believes it would be unwise to make the CBC dependent on the private stations' production plant. We fear significant adjustment problems in effecting the transfer of production facilities, and we would expect the creation of new licensees under this plan to bring about a further undesirable fragmentation of markets. Therefore, we find this option, like the others, unacceptable.

In the Committee's view any examination of the CBC's structure of television stations must grow out of a set of assumptions about the CBC's programming responsibilities. The CBC stations must be seen as far more than a transmission system for programs emanating from the networks. Instead, they are the key to producing programs in all parts of Canada both for the regions of Canada and a national audience. The implementation of any of the options examined in this study would take the CBC the next step in the direction of a radical centralization of production control and programming activity. For that reason we favour a strengthening of the regional production activities of the CBC.

The Committee notes that, in reviewing the options presented in the study, the Minister of Communications has also concluded that implementation of them could mean a reduction in CBC's local or regional presence. As a result, in her letter of March 29, 1988, the Minister has advised the Committee that she has concluded the social costs of implementing such measures would be too high. The Committee notes as well that the assessment prepared for us suggests that the financial savings resulting from any of these options were substantially overstated.

3.3.8 Advertising on CBC Television

The two major commercial influences on the CBC, the carrying of advertising and the affiliation agreements with private stations, were the subject of a landmark CRTC licence renewal decision in 1974. The regulator said, in effect, that the CBC should try to work free of both in order to become a true public broadcaster. Since that time, the costs of producing the television service and getting it distributed have militated against a non-commercial CBC-TV, though CBC radio has carried no commercials since 1975 and is, as we have mentioned, almost free of reliance on private stations for distribution.

The Committee believes that commercials should be accepted on CBC-TV for the foreseeable future. Our urgent priority is the production of highly appealing Canadian programming in the entertainment gap now so overwhelmingly occupied by American programming on the English side, with the danger of the same thing gradually happening on the French side as well.

From the sponsor's point of view we believe Canadian business should not be deprived of the opportunity of reaching the millions of Canadians who enjoy CBC programs designed for popular audiences. Enterprise in this country already faces a media advertising spillover from the United States of formidable proportions; it should not be deprived of an excellent media vehicle in Canada. In return, business should respect the creative and editorial independence essential for the CBC if the Corporation is to fulfill its mandate and serve Canadians with integrity.

For these reasons, the Committee adopts the following three recommendations made by the Task Force.

Recommendation 38

The CBC should continue to generate commercial revenue by selling airtime on its television networks.

Recommendation 39

The CBC should insulate production, programming and scheduling decisions from attempts to maximize commercial revenues.

Recommendation 40

The CBC should minimize the disruptive qualities of on-air commercials on programs such as drama or performing arts specials, and exclude or minimize them where appropriate, such as in children's programming.

3.3.9 Other Factors Affecting CBC-TV Performance

The performance of the CBC's television networks is affected by a wide range of factors, many of them largely external to the CBC. The Committee heard testimony on such questions as the relationship of Telefilm Canada to the Corporation, the Capital Cost Allowance, the relationship of the Corporation to the National Film Board, and the effect of labour relations. These issues are examined later in this Report.

3.4 Provincial Television

Broadcasting is under the jurisdiction and control of the federal government. Education, on the other hand, is the responsibility of the provinces, and it was in pursuit of educational objectives that the provinces became involved in broadcasting. In the beginning, provincial departments of education and universities recognized the opportunities of broadcasting, and prepared school broadcasts and other films and educational materials. By 1970, some provinces were anxious to establish their own educational broadcasting transmission facilities.

Today, Radio-Québec, TV Ontario, Access Alberta, and British Columbia's Knowledge Network are making a substantial contribution to Canadian broadcasting. In the case of the other six provinces there is no evidence that they are likely to establish provincial television networks in the future, although most are involved in producing educational films or videotapes. The ability of individual provinces to operate television services naturally varies greatly on the basis of population and revenue base.

The Task Force on Broadcasting Policy felt that the importance of provincial broadcasters should be recognized in a new broadcasting act and policy. In its sixth report the Committee agreed, and recommended:

> The broadcasting act should make provision for licensing by the CRTC of educational broadcasting services established by provincial governments, and such services should be regarded as an integral part of the Canadian broadcasting system. [Sixth Report, Recommendation 47.]

Provincial broadcasters are not homogeneous; there are differences in their mandates, organization, and services. Some concentrate on formal educational or "schools" programming, often working closely with the provincial educational authorities, while others take a broader and more informal approach to education. Yet their *raison d'être* was and remains the province's jurisdiction over education. The federal and provincial governments agreed in 1969, after long negotiations, to the following definition of educational programming:

> ...programming... to provide a continuity of learning opportunity aimed at the acquisition or improvement of knowledge or the enlargement of understanding of members of the audience. [Order-in-Council 1970-496.]

Of course this definition is flexible, and has allowed the various provincial broadcasters to develop along different lines, in response to the particular needs and priorities of their provincial governments. Some provinces, notably Quebec, see education and culture as inextricably bound together.

Exactly what constitutes "educational" programming will obviously differ from province to province, and over time. An important distinction was drawn by Mr. Jacques Girard of Radio-Québec between instructional and educational television, with the former being much more geared to formal or classroom curriculum type of programming. Educational programming, on the other hand, has a much broader connotation. As David Roach of the Knowledge Network told the Committee:

> Canadians... have assumed a much greater responsibility for their own education. They are demanding educational and training opportunities that are difficult for the traditional educational system to meet in conventional ways. That demand will increase for the rest of this decade and into the next century. To meet the needs, innovation in both program development and delivery are essential.
>
> Today's student, or learner as we prefer to call them, is a highly motivated and selective consumer of knowledge. The rapid explosion of technology, the changing world of work, the unpredictable economy all combine to create a need for education and training that is unmatched in history.
>
> It is not possible for the conventional approach to meet all the demands. The classroom or lecture hall is no longer the sole source of knowledge, as people appreciate that learning is something that occurs everyday, in almost any environment. There is a smorgasbord of information available. Getting it to the consumer in a co-ordinated and innovative manner is the challenge. [*Minutes*, 50:6-7.]

The same point was made by TV Ontario in its brief to the Committee:

> As we move towards a post-industrial information age, the need for and role of on-going education is increasingly important. Canadians will need to enhance skills and educational resources to prepare for the changing environment; to provide another option for use of their increased leisure time; and, finally, to aid workforce retraining. [Brief dated 27 March 1987, p. 2.]

The issue of whether or not to redefine the programming role of the provincial broadcasting services was addressed in the Committee's earlier report on legislation. [Sixth Report, p. 65-67.] In that report the Committee noted that it did not support any change in the definition of the role of provincial broadcasters or in the way that definition is interpreted.

It is also desirable, as the Task Force recommended, that the broadcasting authorities of the provincial governments should be operated at arm's length through autonomous broadcasting entities, just as the CBC should be operated independently of the federal government. Obviously, it will be necessary for provincial broadcasters to work closely with provincial departments of education and governments. The point is that they should be free of direct political interference and control.

The Task Force also considered it important for the programming of provincial broadcasting organizations to be distributed as widely as possible within their jurisdictions, and recommended that this programming be given priority carriage in all cable systems operating within the province. This becomes increasingly important as such services make greater use of satellite transmission, as opposed to traditional off-air transmitters. Section 9 of the Cable Regulations requires the same priority carriage for all educational services provided by a provincial authority in which the undertaking is located, no matter how the service is distributed. The Committee agrees that this policy should continue.

The Committee also agrees with the Task Force that the CRTC should consult with appropriate provincial authorities before awarding any licence for program signals to be broadcast within their province that could be viewed as a competitive educational service. As noted in the Committee's Sixth Report, however, the provincial broadcasters have also expressed concern over the extra-provincial carriage of their signals without their prior consent. There are legitimate copyright and jurisdictional concerns on the part of provincial broadcasters and governments which must be respected by the CRTC and cable system operators. As Access Alberta told the Committee:

> Programming on the ACCESS NETWORK television service is not cleared for broadcast outside of Alberta. To obtain the copyright clearances required would result in a substantial cost which ACCESS NETWORK cannot, under any circumstances, afford to pay. It must be remembered that ACCESS NETWORK is funded predominantly by a grant from the Government of Alberta and its mandate is to serve the citizens of the province of Alberta. [Brief, pages 5-6.]

Provincial educational programming performs a valuable function in meeting provincial needs, and reflecting regional diversity. During its travels, the Committee heard extensive and continual criticism of the lack of a regional presence on the national television networks, and the dearth of production opportunities outside Toronto and Montreal. Provincial broadcasters are helping to redress these problems. The Canadian broadcasting system will be enhanced by greater opportunities for the exchange and screening of programming by provincial broadcasters. Quebec, Ontario, Alberta and British Columbia have formed an organization to promote and facilitate educational broadcasting, the Agency for Tele-Education in Canada (ATEC), designed to foster cooperation in the economic exchange, utilisation and evaluation of educational broadcast materials. ATEC has already demonstrated that efficiencies and economies can be achieved through co-productions and co-acquisitions, and it is to be hoped that it will continue to serve as the basis for cooperative activities in the future.

As the Task Force noted, it is also important that provincial broadcasters have access to the support system such as the Broadcast Fund put in place at the federal level to foster production of Canadian programs. The Committee supports strongly the decision that was made in 1985 to allow producers access to the Broadcast Fund based on commitments for provincial broadcasters to exhibit their programs.

3.5 Private Television

3.5.1. Introduction

As we saw in section 3.1, private sector off-air stations and networks account for a substantial majority of both television revenues and audiences in Canada. It is therefore particularly important to establish public policies that provide for private television to make a contribution to achieving the goals established in the *Broadcasting Act*.

In examining legislative issues in its Sixth Report the Committee proposed significant changes. The 1968 *Act* requires that individual broadcasters provide programming that is "of high standard, using predominantly Canadian creative and other resources". Beyond this provision the *Act* now states the broadcasting system as a whole should provide programming that is "varied and comprehensive" and should "provide reasonable, balanced opportunity for the expression of differing views on matters of public concern." [*Broadcasting Act* R.S.C. 1970, Chapter B-11, Section 3(d)]. Apart from this the only relevant provision in the *Act* is that "the system should be effectively owned and controlled by Canadians so as to safeguard, enrich, and strengthen the cultural, political, social and economic fabric of Canada". [*Broadcasting Act* R.S.C. 1970, Chapter B-11, Section 3(b).]

The Committee's legislative recommendations would provide a clearer and more precise statement of Parliament's objectives for Canadian broadcasting. The recommendations we made, which we believe are sufficiently general to be appropriate for legislative use, would:

- clarify the requirement that the programming provided by each broadcaster and network operation should be predominantly Canadian, while making provision for appropriate exemptions in special circumstances;

- clarify the purposes the Canadian-made programs are intended to serve, including the reflection of Canadian attitudes, opinions, ideas, values and artistic creativity, the showcasing of Canadian talent, and the provision of information and analysis concerning Canada and other countries from a Canadian point of view; and

- confirm the expectation that the programming offered should provide a balanced representation of Canadian society.

Our review of policy issues related to television is based on these revised objectives. Among the critical issues is whether the industry as currently structured has the capacity to make a greater contribution.

Between 1979 and 1986 there was real growth in revenue in private television at an annual rate of 3.8 percent in constant dollars as shown in Table 3.10. The most rapid growth occurred in the revenues of independent stations, which rose by 6.2 percent, followed by CTV affiliate stations, which experienced annual real growth of 4.4 percent.

Table 3.10 Private Television: Growth in Revenue by Affiliation, 1979-1986[1]

	INDEPENDENTS			TVA			CTV			CBC AFFILIATES			RADIO-CANADA AFFILIATES			TOTAL		
	Revenue ($ millions)	Annual GrowthRate %		Revenue ($ millions)	Annual GrowthRate %		Revenue ($ millions)	Annual GrowthRate %		Revenue ($ millions)	Annual GrowthRate %		Revenue ($ millions)	Annual GrowthRate %		Revenue ($ millions)	Annual Growth Rate %	
		Current $	Con-stant $		Current $	Con-stant $		Current $	Con-stant $		Current $	Con-stant $		Current $	Con-stant $		Current $	Con-stant $
1979	110.2	--	--	83.4	--	--	213.2	--	--	53.9	--	--	13.5	--	--	474.3	--	--
1980	137.8	25.0	13.0	97.9	17.4	6.1	244.4	14.6	3.6	62.9	16.7	5.4	14.7	8.9	(0.2)	557.7	17.6	6.2
1981	169.2	22.8	8.9	109.5	11.8	(0.8)	292.1	19.5	6.0	61.4	(2.4)	13.4	13.4	(8.8)	(19.2)	645.7	15.8	2.7
1982	202.9	19.9	8.5	116.1	6.0	(4.1)	337.9	15.7	4.7	68.5	11.6	0.9	12.7	(5.2)	(14.3)	738.1	14.3	3.4
1983	212.3	4.6	(0.8)	117.4	1.1	(4.2)	367.1	8.6	3.0	72.6	6.0	0.4	14.5	14.2	8.2	783.9	6.2	0.6
1984	238.3	12.2	8.2	139.0	18.4	14.1	425.4	15.9	11.7	78.0	7.4	3.6	17.8	22.8	18.4	898.5	14.6	10.5
1985	270.7	13.6	9.2	143.6	3.3	(0.6)	449.2	5.6	1.5	82.2	5.4	1.3	19.0	6.7	2.6	964.7	7.4	3.3
1986	275.2	1.7	(2.5)	155.6	8.4	3.9	471.4	4.9	0.6	87.1	6.0	1.6	19.1	0.5	(3.6)	1008.4	4.5	0.2
Annual Compound Growth Rate (%) 1979-1986		14.0	6.2		9.3	1.9		12.0	4.4		7.1	(0.2)		5.1	(2.1)		11.4	3.8

Note: [1] Including revenue from network operations.
Source: CRTC.

The advertising revenues of private English-language stations and networks have been increasing significantly more rapidly than those of their French-language counterparts. As Table 3.11 indicates, while the revenues of private English-language broadcasters rose by 121.2 percent in current dollars between 1979 and 1986, those of French-language stations and networks increased by just 68.1 percent. In 1986, private French-language stations and networks accounted for just 16.4 percent of the revenues of all private stations and networks in Canada. This contrasts significantly with the 27.3 percent share of all viewing of private Canadian stations and networks which was accounted for by French-language broadcasters and network operators in 1986.

Table 3.11 Private Television: Share and Growth of Advertising Revenue by Language of Broadcast, 1979, 1984 and 1986 ($ millions)

	1979		1984		1986		Growth 1979-86
	$	%	$	%	$	%	%
English Stations	349.3	79.5	683.4	83.7	772.7	83.6	121.2
French Stations	90.3	20.5	133.3	16.3	151.8	16.4	68.1
All Stations	439.7	100.0	816.7	100.0	924.6	100.0	110.3

Source: CRTC.

The strength of conventional private broadcasting in Canada is evident in the profit performance of the industry, as well as in its increasing revenues. As Table 3.12 indicates, between 1975 and 1986 profits before taxes in private television were remarkably steady, varying from a high of 20.6 percent of revenue to a low of 16.7 percent. Profits vary to a somewhat greater degree within the various station groups (Table 3.13) and have generally been somewhat lower for independent stations than for network affiliates. There has been relatively little difference between the levels of profitability achieved in English and in French-language broadcasting, although in the period 1979 to 1982 profits in French-language broadcasting were substantially higher.

Table 3.12 Operating Profits and Profit before Tax of Private Television Stations, 1974-1986[1]

	1975	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986
Operating profit ($ millions)	50.3	73.5	77.6	96.7	113.3	125.5	161.0	189.0	197.9	222.7	232.9	225.9
Operating profit as a percent of revenue	22.2	26.1	23.5	24.1	23.9	22.5	24.9	25.6	25.2	24.8	24.0	22.4
Profit before tax ($ millions)	37.9	57.9	59.6	77.5	91.3	98.5	123.5	145.5	145.7	163.3	177.7	175.4
Profit before tax as a percent of revenue	16.7	20.6	18.0	19.3	19.2	17.7	19.1	19.7	18.6	18.1	18.3	17.4

Note: [1] Including network operations.

Source: CRTC.

Table 3.13 Profit Margins of Private Television by Affiliation (%), 1979 - 1986[1]

	1979	1980	1981	1982	1983	1984	1985	1986
English Stations								
CBC Affiliates	21.0	18.9	19.9	20.1	21.8	24.8	21.5	21.5
CTV Affiliates	18.2	18.9	21.0	22.0	21.4	19.8	19.8	18.5
Independents	11.3	7.1	9.3	11.6	12.0	14.0	14.7	13.8
TOTAL	16.6	15.2	17.0	18.3	18.4	18.5	18.3	17.2
French Stations								
Radio-Canada Affiliates	17.8	24.5	7.4	13.4	16.8	23.0	20.8	14.6
TVA Affiliates	31.5	27.6	30.5	27.7	20.1	15.6	18.1	18.6
TOTAL	29.6	27.2	28.0	26.3	19.7	16.5	18.4	18.2
All Stations	19.3	17.7	19.1	19.7	18.6	18.2	18.3	17.4

[1] Including network operations

Source: CRTC

The Committee found it interesting to compare the level of profitability of Canada's private broadcasters with that achieved in private broadcasting in Britain. As Table 3.14 indicates, the net profit before both interest and taxes among commercial broadcasting companies in Britain varied from 6.0 percent to 8.4 percent between 1982 and 1985, far lower than in Canada. As the 1986 *Report of the Committee on Financing the BBC* (Peacock Report) noted "The companies' ability to maximise profits is to some extent limited by the obligations of public service broadcasting, as reflected in the Broadcasting Act 1981 and their contracts with the IBA." [London, Her Majesty's Stationery Office, *Report of the Committee on Financing the BBC*, July, 1986, p. 15.]

Table 3.14 Revenue, Expenses and Profits, ITV Companies, (£000) 1982-1985

	1982	1983	1984	1985
Net advertising revenue	697,380	824,534	911,291	982,569
Total income	716,975	858,210	962,807	1,046,298
Direct programme costs	191,537	193,421	226,041	237,985
Indirect costs	327,471	355,057	392,210	422,060
IBA rental	46,370	51,298	53,803	57,072
Fourth Channel subscriptions	49,000	127,983	158,896	171,314
Total Expenditure	647,728	759,785	873,803	939,428
Exchequer levy	27,469	34,114	24,180	24,178
Net profits (before interest and tax)	41,778	64,311	64,824	82,692

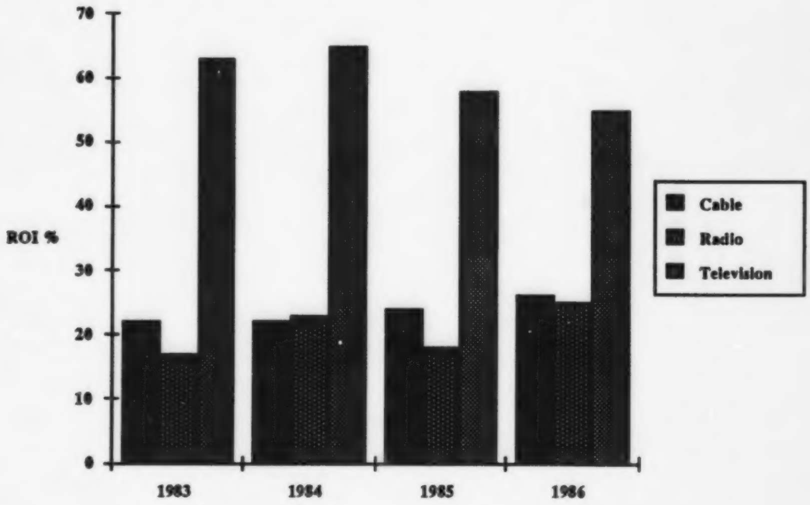
***Source:** (London, Her Majesty's Stationery Office, Report of the Committee on Financing the BBC, 1986.)*

As the table indicates, the ITV companies earn most of their revenues from advertising. From this revenue they are required to: meet the cost of providing programs to the Independent Broadcasting Authority in Britain for broadcasting on ITV; pay rentals to the IBA to finance the Authority's network of television transmitters and supervisory and other services related to television; pay a subscription to finance Britain's Fourth Channel; and, in the case of companies making sufficient profits, pay a levy to the government. The Peacock Report notes that the aim of this levy is to provide the public with an appropriate share in the exploitation of a profitable public asset, the airwaves.

It is not the Committee's intention to suggest a precise comparison between private television in Canada and Britain. There are in fact many substantial differences, including a higher level of risk in Canada because of much greater competition. Nevertheless, this does not invalidate the basic point that although private television in Britain offers much lower profits than in Canada there has been no shortage of licence applicants.

In examining the profitability of broadcasting the Committee also asked the CRTC to provide return-on-investment information for private television, as well as for radio and for cable. As Figure 3.2 indicates, the return on investment in private television is unusually high, in excess of 50 percent for the four most recent years for which data are available. The return on investment in television is more than twice as high as in either radio or the cable industry.

Figure 3.2 Return on Investment in Private Cable, Radio and Television (%), 1983-1986



Source: CRTC

The Committee considers it evident that private television has been making an insufficient contribution to achieving the goals of the *Broadcasting Act*. In the comments and recommendations that follow we address many of the issues that affect the environment within which private television in Canada functions. Since it is a regulated industry, that environment is created in large part by legislative and regulatory decisions, as well as evolving technology and the market for advertising.

3.5.2 The Revenue Base of Private Television

Canadian television faces the central reality that its advertising base is more limited than might be expected on the basis of Canada's population and the economic strength. In appearing before the Committee, the CAB noted that "television revenue in Canada is $1.2 billion annually, and some $23 billion in the United States". [Minutes, 69:20.] The fact that the advertising base in Canada is roughly half that of the United States per capita is further complicated by the need to provide programming in both French and English. The limited advertising base of the industry combined with programming in two languages greatly increases the need for the public broadcaster, CBC, to play the central role in providing Canadian programming. In its brief to the Committee the CAB expressed its support for the CBC's role and mandate to increase the availability of diverse, quality Canadian programming to all Canadians.

A number of factors affect advertising revenue, including differences in the number of products advertised in Canada and the United States, as well as the existence of fewer major advertisers in Canada. However, a major factor is that English-speaking Canadians spend 30 percent of their time watching American, rather than Canadian, television. That figure would be much higher without the impact of the CRTC's substitution rule, which was described in Section 3.2 above.

The Task Force commissioned a special study to examine the impact of U.S. television spillover and of the two major policy initiatives which have been taken to offset its impact. These are simultaneous substitution and the provision of Section 19 of the *Income Tax Act* precluding Canadian businesses from deducting as a business expense the costs of commercials placed on American stations and networks in order to reach Canadian consumers. The premise of that law, usually referred to as Bill C-58, is that the deduction of Canadian advertising costs for tax purposes should support Canadian media.

The Task Force study reached the following conclusions:

1) That in 1984 Bill C-58 had the effect of increasing the net revenues of Canadian television stations and networks by $35.8 million to $41.8 million;

2) That the simultaneous substitution regulations increased the Canadian television revenues by about $53 million; and

3) That despite the effect of C-58 and simultaneous substitution the loss of advertising attributable to the remaining spillover of American ads was between $50 million and $149 million in 1984, with a restricted sampling of specific advertisers suggesting a shortfall of $124 million.

The Committee shares the view of the Task Force that at a minimum the provisions of Bill C-58 and simultaneous substitution must be maintained. Apart from the practical concern to protect the revenues of Canadian broadcasters, which remain in spite of these measures at half the U.S. per capita level, the Committee believes that the importation of these signals without regard to copyright is in principle unfair both to program producers selling rights for the Canadian market and to the Canadian stations which purchase those rights.

In principle the Committee would favour additional measures to protect the rights purchased by Canadian broadcasters. We regard enhancing market exclusivity for rights holders as a central issue. We return to it in Chapter 8.

Recommendation 41

> To enhance the capacity of private broadcasters to contribute to the objectives of a new broadcasting act both Bill C-58 and the CRTC policy on simultaneous substitution should at a minimum be retained.

The Committee recognizes the concerns that exist about the impact of simultaneous substitution on the scheduling practices of Canadian stations and networks. Since they can protect their local market exclusivity only if they show U.S. programs they purchase at the same time they are being shown on the U.S. station or network, their scheduling becomes linked in lock-step to that of the U.S. networks, hence reducing flexibility in scheduling Canadian programs. The Task Force recommended that the CRTC ensure that its program substitution policy does not have the effect of reducing the exhibition of Canadian programs in peak viewing time. The essential measure the Task Force proposed to accomplish this was a 45-percent quota for the exhibition of Canadian programs in the 7 p.m. to 11 p.m. time period, which we consider later in this section.

The Committee shares the concern of the Task Force about the impact of simulcasting on the scheduling of Canadian programs. However, there are other effects as well. For example, if a Canadian broadcaster simulcasts a U.S. show it is then available on both Canadian and U.S. channels and can be expected to garner a larger audience and additional commercial revenue. However, if a Canadian station or network chooses to show a Canadian program and forego a substitution opportunity, that program will not only be available only on the Canadian channel, but will actually be competing with the U.S. show appearing on the American channel. The result is to add artificially to the commercial attractiveness of running American rather than Canadian programs. One further result of simultaneous substitution is to provide an incentive to Canadian broadcasters to fill the 40 percent of their schedule in which they can run non-Canadian programs (50 percent of the 6 p.m. to midnight schedule) with American shows only, rather than including programs from other countries. For all these reasons, the

Committee has concerns about this policy and would prefer an alternative approach to protecting local market exclusivity. However, until an effective alternative policy such as we examine in Chapter 8 can be put in place, simultaneous substitution must continue, with the necessary safeguards against its side effects.

Recommendation 42

> The CRTC should develop measures to ensure that its program substitution rules do not reduce the exhibition of Canadian programs in peak viewing time. To achieve this purpose, alternative approaches to protecting the program rights purchased by Canadian broadcasters should be considered.

The Committee recognizes that the exhibition of American programs will remain the key to the financial viability of private Canadian broadcasters for as long as anyone can foresee. We therefore share the strong concern of the Task Force that Canada should continue to be a separate territory for the sale of television program rights, with Canadian broadcasters to the greatest extent possible satisfying Canadian interests in both foreign and Canadian programs. The Committee's position on this issue is reflected in our earlier recommendation that cable television's role, and the role of other distribution undertakings should be viewed essentially as that of providing Canadian radio and television services to Canadian audiences.

Recommendation 43

> To the extent possible, broadcasting policy and regulation should ensure that foreign programs are distributed in Canada by Canadian television stations holding exhibition rights for the Canadian market, in order to maximize their available resources to present a wide range of Canadian programming and to ensure that they can be an effective advertising vehicle for Canadian businesses.

The Committee notes with approval that the CRTC included in its 1986 cable television regulations a provision that cable systems may not carry American stations which began operation after January 1, 1985. Some of those stations were being established, not to serve the U.S. communities where they were located, but primarily to serve the adjoining Canadian cities. If cable carriage of these stations in Canada is permitted they will weaken

Canadian stations without contributing in any way to providing Canadian programs. We urge the Commission not to exempt cable systems from this provision through conditions of licence.

Taking what seems a completely contradictory direction, the CRTC has more recently proposed to amend the cable regulations to permit the importation of four American superstations — (WTVS Atlanta, WGN Chicago, WOR New York City and WPIX New York City) — specifically for carriage on a discretionary basis in packages with the Canadian general-interest pay television services. The Commission's primary concern appears to have been to bolster the financial position of the licensed Canadian movie channels by making them more attractive to subscribers. The Committee believes that other options are open to the Commission that might have achieved that purpose.

Strong concerns have been expressed that this decision will further erode the separate Canadian copyright market in television. While the Committee agrees that a wide range of non-Canadian as well as Canadian programming should be available, it is not necessary to engage in a wholesale importation of non-Canadian services to achieve that purpose.

Recommendation 44

> The CRTC should not use conditions of licence to exempt cable systems from the regulation which precludes carriage of American stations which began operation after January 1985, and should review its decision concerning the importation of American superstations in the light of its potential to erode the existence of a separate Canadian television market.

3.5.3 Fragmentation of the Television Market

The ability of private television to contribute to the goals of broadcasting policy is limited not just by its advertising base but by the fragmentation of audiences and revenues. Individual Canadian stations and networks can only contribute to the provision of properly financed Canadian programming if they have the resources to do so.

As noted earlier the Canadian broadcasting market is already one of the most fragmented in the world, largely because of the policy of importing into the Canadian market most of the major American television services, as well as great quantities of American programming for exhibition on Canadian networks and stations. Throughout the Committee's hearings we have heard Canadian stations' concerns about fragmentation in both French-language and English-language broadcasting.

Among the factors contributing to fragmentation of market in recent years are the following:

- the licensing of additional independent off-air stations, including third and fourth stations in many markets;
- the licensing of a third French-language television network, with new stations established in a number of markets;
- relaxation of the rules governing carriage of distant Canadian television stations, that is stations licensed for a different local television market;
- permitting the carriage of CANCOM's signals in larger markets outside the core market of remote and underserved markets it was licensed to serve;
- permitting the importation of additional conventional and specialty services from the United States; and
- licensing Canadian pay and specialty television services.

Commission policy in recent years has seemed to emphasize increasing the number of services at the expense of both copyright principles and the system's ability to generate high quality Canadian programming locally, regionally and nationally. Our point is not that we oppose expanding the range of television services; in our earlier report on specialty services, for example, we endorsed the licensing of new Canadian services for carriage on basic cable service and the importation of complementary non-Canadian specialty services. There is, however, a balance that must be struck between expanding the range of choices available and maintaining the capacity of Canadian stations and networks to provide Canadian programming. While we recognize that the Commission has built some limited safeguards into these decisions — for example, providing for public hearings prior to permitting the carriage of distant signals — we are concerned that the impact of this cluster of decisions on the strength of Canadian broadcasting was not carefully assessed and carries with it great risks.

Based on the concerns expressed by private broadcasters we asked the CRTC whether it had done any studies over the past five years which assessed the impact increased fragmentation has had on:

a) the viewing of existing services;

b) the revenues of existing services;

c) the programming expenditures of existing services, both for foreign and Canadian programs; and

d) the profits of existing services.

The Commission advised the Committee that it has not conducted any studies which directly examine the issue of fragmentation, although it has done a number of studies which indirectly deal with the issue at least in relation to the viewing and revenues of existing services. The latter studies suggest that adding a new Canadian signal to a market at least expands the total time spent viewing Canadian stations and suggests that adding a distant signal does not result in a decline in either audience or revenue of Canadian stations. However, since no studies have been done which look at profit levels or at the impact of fragmentation on expenditures on Canadian and foreign programs, no substantive conclusions are possible concerning the impact of this fragmentation on the ability of Canadian broadcasters to finance Canadian programming.

In the Committee's meetings across the country we heard repeatedly that growing fragmentation had led to heightened competition for American programming and much higher prices for it. In response to a question on this issue the CAB advised the Committee that "The competition... has undoubtedly forced the cost of American programming substantially higher than it was even a few years ago". [Minutes 69:33.] Asked what impact this has on Canadian programming, representatives of CAB advised the Committee that it reduces the potential to generate better quality Canadian programs.

We also asked the CRTC whether it agreed that increased competition for American programs has driven up their costs, requesting data on expenditures on Canadian and foreign programming by English and French-language broadcasters in the 1980s. The Committee received the following response.

> The Commission recognizes that increased competition amongst private television stations may have resulted in some increased costs for the rights to foreign television programs. However, the Commission also recognizes that costs for these programs have increased considerably in recent years for reasons unrelated to the situation in Canada. Increases in foreign production costs and inflation have contributed substantially to increased program acquisition costs.
>
> The data available to the Commission from Statistics Canada's annual returns does not differentiate between broadcasters' expenditures on Canadian and non-Canadian programming so that the Commission is unable to provide detailed information on this subject at the present time.
>
> However, the Commission has recently designed a new, annual monitoring package which will supplement the annual returns and should in the future enable the Commission to track, in more detail, information such as the licensee's annual expenditures on Canadian and non-Canadian programming.
>
> For the time being, the Commission is not overly concerned about any trend, on the part of private broadcasters, toward excessive expenditures on foreign programming. Should such a trend become evident, the Commission feels the most effective way of addressing the issue would be to continue the present policy of ensuring, through regulation and conditions of licence, that private broadcasters produce and broadcast the maximum feasible amount of quality Canadian programming throughout their program schedules. [CRTC Response to Questions submitted on December 15, 1987, Private Television, Question 6.]

Information provided to the Committee on a confidential basis confirmed at least one example of a case in which additional competition had both sharply increased programming costs and sharply reduced profit. Neither this example nor the comments concerning the escalating expenditures on American programming can be taken as proving anything. However, that is precisely the problem; there is no conclusive information or analysis available.

In the case of expenditures on Canadian and non-Canadian programming the Committee finds it unacceptable that, apart from the special study done for the Task Force in 1985, the annual statistical survey of the industry does not gather information on such expenditures. The

Committee shares the concern of the Task Force that such data are essential and should be a regular part of Statistics Canada's annual survey.

The Committee has already recommended that substantial additional resources should be provided to the CRTC for research. It is difficult to be too critical of the Commission when it lacks resources for research but recognizes itself the need for a substantial, independent research capacity.

Recommendation 45

> The annual statistical survey of Canadian television broadcasters should be amended to provide data on expenditures on Canadian and foreign programming in each program category.

Recommendation 46

> The CRTC should give high priority to research examining the impact of market fragmentation on the viewing of existing broadcasters, their revenues, expenditures on Canadian and non-Canadian programming, and profit levels. The Commission should also establish a systematic approach to monitoring the impact of fragmentation. All such Commission research and monitoring studies should be made public, subject to the confidentiality provisions recommended earlier by the Committee in Recommendation 78 of our Sixth Report.

In Chapter 1 of this report we examined the attitudes of Canadians toward broadcasting issues. Generally speaking there is strong public support for measures intended to strengthen Canadian programming in the system, and, except in remote and underserved areas, no strong demand for additional services. Hence we believe CRTC policy over the next few years should shift focus toward strengthening Canadian programming and its financing, in both French-language and English-language private television. In making the following recommendation we note that, while the advertising revenues of Canadian television have been growing steadily in constant dollars, the advertising pool has neither widened nor deepened in proportion to the increased number of television services which depend upon it. Inevitably there is a choice to be made between capitalizing on increased revenues to fund higher levels of competition or better Canadian programs.

Recommendation 47

> The CRTC should shift its emphasis from licensing additional television services to strengthening the capacity of the system to deliver well funded Canadian programs in both French and English.

3.5.4 Service to Local Communities

Concern about market fragmentation at the local level goes back to the beginnings of television service in Canada, when CTV signals coming into small communities resulted in concerns that the existing local CBC affiliate might fail. At that time CRTC policy in smaller markets was to create a "twin-stick" local service, that is to allow the local CBC licensee who was already in the market to hold the CTV or TVA affiliate licence as well.

The Committee's concern to maintain local service is reflected in our earlier recommendations concerning the CBC's small affiliates. We share fully the concerns the Task Force expressed to ensure that expanding the range of services available is not accomplished at the cost of local service in small markets.

Recommendation 48

> The CRTC should continue to recognize the basic importance of local television programming and pursue policies designed to avoid or minimize threats to local television stations and local programming. Policies that will tend to transform local independent stations whether Canadian or non-Canadian into regional or national superstations should therefore be avoided.

Recommendation 49

> The CRTC should consider allowing existing local broadcasters to become new "twin" or "triple" stick operators rather than allowing distant Canadian signals into local markets if they threaten the viability of local broadcasters.

Recommendation 50

In communities where no local television service is now provided, the Committee concurs with the proposal to allow the importation of distant signals either by way of cable or low-power, off-air rebroadcasting transmitters where frequencies are available.

Recommendation 51

The CRTC should continue to require the licensees to make a contribution to local programming consistent with their financial capacity as well as an appropriate contribution to meeting the broader Canadian programming objectives of the whole system.

3.5.5 The Structure of Conventional Television

While local and regional programming are important and require protection, the reality of commercial television is that most of the schedule is filled with programs produced for national markets, whether in Canada or other countries. Morever, the kinds of programs that require aggregation of resources at the national level are in the categories in which remarkably little Canadian programming has been available.

The *Report* of the Task Force gave special attention to the role of networks in Canadian television, arguing that the ability of the system to generate Canadian programming depended to a substantial degree on the existence of strong network structures. Research prepared for the Task Force documented the fact that network structures, as opposed to independent stations, result in a higher commitment of resources to Canadian programming, particularly in the categories of children's programming, drama, variety, music and other types of performance programming. The Task Force's research also documented the fact that network affiliate stations attract a larger percentage of their total audiences to the Canadian programming they offer than do independent stations. It showed that in 1984, 37 percent of all viewing of CTV affiliates was of their Canadian programs, by comparison with 27 percent for independent stations [*Report*, p. 457.]

The Task Force *Report* made the additional point that network structures were not only more effective and appropriate vehicles than independent stations to achieve Canadian programming goals, but that they had to be effective in aggregating resources if they were to achieve this purpose. The *Report* noted that 45 percent of all television advertising revenue in the United States flows into network structures, against only 22 percent in Canada; while for national advertising only, in the United States 60 percent goes to the networks against only 28 percent in Canada. The *Report* reached the following conclusions:

> If Canadian networks had received the same share of national advertising as their American counterparts, they would have had revenues of $454 million in 1984, more than double their actual $215 million. The combined effect of the low per capita spending on TV advertising in Canada and the low aggregation of advertising revenue on networks is that Canadian networks have revenues that are only 2.5 percent of those of the American networks. [Report, p. 451.]

The Task Force made two related recommendations: first that the structure of the CTV network should be thoroughly reviewed to ensure greater effectiveness in providing Canadian performance programs; and second, that CRTC policies in English television should enhance the aggregation of resources among stations not affiliated to CBC or CTV. The issue was not addressed in relation to French-language television, beyond noting that a new network, Quatre Saisons had recently been licensed.

The evidence the Committee has received suggests that there is general agreement with the need to give greater emphasis to Canadian network structures. Action on this issue seems generally to be regarded as a necessary counterpart to the initiative taken in 1983 through the Broadcast Fund to make more Canadian programming available in the most neglected categories.

The CAB submission stated that "We agree with the Task Force's assessment of the difficulties faced by independent television stations in generating domestic entertainment programming". [CAB Submission, p. 11.] and stated that "every attempt should be made to cast the Canadian broadcasting system as a national entity and not as a regional composite".

A copy of a CAB position paper on television networks, presented to the CRTC, was also given to the Committee in March, 1987. That paper contains the following statements:

> The notion of pooling resources within network structures is raised as a major recommendation in the Report of the Task Force on Broadcasting Policy... The CAB agrees with this principle.... The aggregation of funds from a substantial

> number of stations is needed to provide quality in entertainment fare, and to support the cost of local production....
>
> If one were to assess the costs resulting from the Commission licensing numerous, unaffiliated conventional television services having extensive local programming expenditure... against a strategy which concentrated or focussed resources within a national network(s) it is increasingly arguable that the latter option would result in more enduring contributions. These would take the form of more consistent talent development and promotion, more varied programming and more impressive Canadian content. [Comments Submitted by the Television Board of the C.A.B. in response to CRTC Public Notice 1986-355, p. 2.]

It is worth noting that Canadians would receive local programming from Canadian television stations even if they were affiliated to the commercial U.S. networks (CBS, NBC and ABC). It is only to the extent that Canadian stations are providing non-local Canadian programming that they are providing a benefit that would not exist if they had simply been allowed to attach themselves directly to the American broadcasting system.

The Committee notes that since the Task Force *Report* was tabled a number of developments have taken place. First, the network licence of CTV has been renewed and this was done separately from the renewal of the licences of CTV's affiliated stations, against the recommendation of the Task Force, which said they should be considered together. However, network review did lead to a reconsideration of the relationships between the network and its affiliates and to the tabling with the Commission of a revised draft CTV affiliation agreement. That agreement sets out the way air-time and revenues will be divided between the network and the affiliate stations and is, therefore, central to any strengthening of the network's ability to foster Canadian programming. In the Committee's meeting with the CRTC, the Commission's Chairman stated that the CRTC is looking for a substantial shift of resources into the network. [Minutes, 72:6.]

In its written questions to the Commission the Committee asked whether there would be an opportunity for comment by the public and interested parties on the revised agreement. The Commission replied that it would ensure that "the revised agreement is in keeping with changes indicated at the public hearing and in that decision." [CRTC Response to Questions Submitted on 15 December 1987, Private Television, Question 1.] While this is not ideal the Committee is pleased that positive changes are occuring in response to the Task Force recommendation, the intent of which we endorse.

Recommendation 52

> The CRTC should continue in its policies related to the CTV network and its affiliate stations to pursue the intent of the Task Force recommendation, strengthening the network's ability to provide Canadian programming at the national level.

Some practical problems must now be surmounted if a formal third English-language network is to be created. Specifically, it might not be possible to put such a structure in place quickly. While we recognize these difficulties, we believe that this option merits serious and prompt consideration. If a third network is to proceed, consideration might be given to having its head office located outside Toronto, which now is the headquarters of both the CTV and CBC English networks.

One obvious way of exploring alternatives for the development of a third English television network would be for the CRTC to invite proposals or applications, setting out at that time the purposes the Commission would wish the network to serve. However, it would also be extremely desirable for a full study to be done to explore carefully the options available and the advantages and disadvantages of each. The two initiatives could proceed simultaneously, with the study providing a basis for judging how realistic the proposals received were, and which approach would be most effective.

We also foresee situations in which, under the terms of our recommendations concerning the CBC affiliates, a few such stations might reasonably be permitted to affiliate instead to a new network. Equally important, if a third network were created, provision would need to be made for twin and triple stick operations in small markets, wherever such arrangements were required to protect local service.

As these comments indicate what we have in mind is a conventional television network, with affiliated stations in major markets. Such a structure could contribute significantly to meeting Canadian objectives. If such a network is created we would expect it to be subject to regulatory expectations comparable to those we identified in discussing the CTV structure.

Recommendation 53

> Prompt action should be taken to examine the feasibility and potential benefits of a third national English-language television network, through both a call for proposals or applications for a third network and the initiation of a study to examine precisely what options are realistic and to explore the benefits and disadvantages of each.

While the Task Force did not make any recommendations on network structures in French-language television our research suggests that a review of the existing structures is needed to assess their effectiveness. In looking at the CBC's French-language television service we drew particular attention to the need to ensure that the budgets of French-language programming remain adequate to ensure the continued success of French-language Canadian programs in a much more competitive market. In private broadcasting we believe this same concern requires a review of network structures.

Recommendation 54

> The CRTC should commission a study of the TVA, Quatre Saisons and Pathonic network structures to see whether changes are desirable which would enhance the ability of conventional French-language television to provide the high quality Canadian programs required in an increasingly competitive market.

3.5.6 Incentives for Canadian Programming

Earlier we examined the importance of Bill C-58 and simultaneous substitution in benefitting Canadian broadcasters and increasing their ability to provide Canadian programming. The Committee does not see these policy measures as a government favour to private broadcasters; rather, we see these initiatives as representing a legitimate and fair, albeit partial, recognition of the rights purchased by Canadian broadcasters. We agree with the Task Force that the CRTC policy of limiting participation in television broadcasting and restricting the entry of foreign competition has brought Canadian broadcasters substantial benefits for which it is reasonable to expect a return.

There are, however, other government initiatives which directly or indirectly assist private television broadcasters. These include the Broadcast Fund, and the Capital Cost Allowance (CCA), through which public support is given to content which the broadcasters use to help meet their Canadian content requirements.

As stated in our earlier reports, the Committee strongly supports government initiatives to enhance the quality of Canadian programming on private television. The Task Force made two recommendations to further that objective. First, it recommended that the Government of Canada, as one of the country's most important advertisers, pursue a policy of placing its commercials on domestic television programs. In 1985-86 the Canadian government spent $71 million on advertising, including $25 million on television. The Committee raised this issue with the Minister of Communications, who indicated that discussions were continuing within the government. The Committee believes that this is a sound recommendation. We not believe that costs would rise, since the rates charged for ads on Canadian programs must always be competitive with the cost of ads on foreign programs.

Recommendation 55

> The government of Canada should normally place its commercials on domestic television programs.

The Task Force also presented a more comprehensive proposal intended to encourage advertisers to place their ads on Canadian television programs. At present the *Income Tax Act* provides, under the terms of Bill C-58, for advertisers to deduct the costs of newspaper, magazine and broadcasting advertisements directed to Canadians only when they are placed in publications owed and controlled by Canadians in which 80 percent of the content is different from that of any foreign publication or on licensed radio and television outlets. The Task Force noted that there were substantial differences between the way that Bill C-58 affects publications and the way it affects television, stating that:

> In television, while section 19 provides a valuable incentive for Canadian advertisers to advertise on Canadian rather than American stations or networks, it does not preclude most or even all of the advertisements being placed on the foreign programs scheduled by Canadian broadcasters. [*Report*, p. 684.]

Since, as we saw in Table 3.8, 80 percent of the peak time viewing of private English-language stations and 55 percent of the viewing of private French-language stations may be of foreign programs, the difference in C-58's impact obviously does exist. In essence the Task Force position was that this was not as well-targetted a tax expenditure as it should be. The Report therefore recommended that Section 19 be amended to provide advertisers with a 150 percent deduction for the cost of advertising on Canadian drama, variety, performing arts and documentary programs, subject to the requirement that such programs qualify for 10 points under the CRTC's criteria for defining a Canadian program. The program categories included are essentially those funded by the Broadcast Fund. The proposed incentive would parallel and reinforce the CRTC's current 150 percent Canadian content credit for 10-points Canadian drama programs.

The CAB supported this recommendation, stating that "The deduction would both provide support for broadcasters in the scheduling of Canadian programming in prime time slots, as well as encouragement for advertisers to use Canadian programs as a means of reaching TV viewers". The CAB proposed, however, that eligible programs should have to qualify for only six points rather than ten.

In the written comments provided by the Minister of Communications, we were advised that discussions were held with representatives of the advertising industry, broadcasters and officials in government departments that would be affected and that problems were identified in relation to the workability and effectiveness of the proposal. The response raised concerns as well about "the question of whether focussing on the advertiser is an effective way of dealing with the financing of production". [Response by the Minister of Communications, p. 6.] On this basic issue of whether initiatives which affect advertising are appropriate the Committee is in agreement that they are. It is for that reason that we support Bill C-58. The question that needs to be addressed now is whether the provisions of Section 19 of the *Income Tax Act* as currently drafted have the intended effect.

The comments of other witnesses the Committee heard were contradictory concerning the 150 percent proposal. We believe that some of the concerns expressed are sufficiently serious that they need to be addressed through a more systematic study. In the absence of adequate evidence of the practicality and effectiveness of the proposed amendment to the *Income Tax*

Act, the Committee is not prepared to make a recommendation on the Task Force's proposal for a 150 percent advertising deduction.

As part of the tax reform process, consideration is being given to a multi-level sales tax which would be of broad applicaiton and might be set at a rate of eight percent. Broad consultations are being carried out on three options, all of which would for the first time make the cost of advertising on Canadian radio or television subject to tax. Such a measure, if implemented would raise in excess of $175 million in new government revenues from the broadcasting sector, including about $100 million from television, assuming an eight percent rate.

The CAB has expressed its opposition to this proposal, noting that the per capita advertising revenues of Canadian broadcasters are at half the U.S. level and that American broadcast advertising is not subject to any comparable tax. If the tax is imposed there is concern that it may result in multinational advertisers relying more on the spillover of their signals into Canada.

Regardless of how such a tax affects the per-capita level of advertising expenditure in Canada, the question really is: Who will absorb the cost? Will advertisers simply spend eight percent more, or will broadcasters be required to absorb some or all of it, with a corresponding reduction in their earnings. No study of the impact of this proposed initiative was available to the Committee; however, we do not consider it reasonable to think the advertisers will absorb all of the cost.

The question of whether such a tax should be imposed needs to be considered in a broader examination of tax equity and government funding requirements. In the framework of this study our specific concern is with the potentially adverse side-effects on the financing of Canadian programs.

In our discussions with the CAB, a representative of the Association stated that "If there is to be a universal application of the business transfer tax, which we feel the broadcasting industry should be exempt from, we would be interested in exploring some sort of tax credit system which would parallel the objectives of Telefilm Canada". [Minutes, 69:32.] The Committee agrees that a targetted tax would be desirable if the existing exemption of broadcast advertising from sales tax is to be removed.

Recommendation 56

> If a decision is made in the context of tax reform to impose a tax on broadcast advertising, its impact should be partially offset through a targetted tax incentive which would complement and reflect the objectives being pursued through the Broadcast Fund.

3.5.7 Canadian Content Regulations

The Task Force presented four recommendations related to the CRTC's Canadian content policies. First, the definition used to identify a Canadian program should be changed to reflect the objectives in the *Act*; second, the existing Canadian content quotas (60 percent all day and 50 percent from 6 p.m. to midnight) should be maintained and a 45 percent requirement established for the period from 7 p.m. to 11 p.m.; third, the Commission should ensure that the Canadian programs exhibited are of high quality and include a substantial proportion in the categories now most inadequately represented on television; and, finally, conditions of licence should be used to require expenditures on internal production or the acquisition of exhibition rights for Canadian programs to a degree consistent with the financial capacity of licensed stations and networks.

The Committee is in general agreement with the intent of these recommendations. To some extent the policies recommended are already being pursued. In the case of using conditions of licence related to Canadian programming expenditures, the CRTC is already doing so, and this is a policy CAB accepts so long as it is pursued in a way that treats all licensees fairly. On the specific proposal that the CRTC concern itself with program acquisition expenditure, the CRTC's performance has been inconsistent, with some decisions framed in relation to acquisition budgets (as in the renewal of the Global television licence) and others leaving open the question of whether Canadian programming expenditures take the form of investment or licence fees.

The CRTC has also begun to use conditions of licence to encourage the provision of Canadian programming in categories which have been neglected in the past. The Committee favours this approach and notes that television broadcasters did not express any significant concerns on this point. Quite the contrary, they seem generally supportive of it as a logical counterpart to the Broadcast Fund initiative.

The CRTC has also decided that it will continue to apply its existing 60 percent all-day quota and its 50 percent quota for the 6 p.m. to 12 a.m. period. The Commission advised the Committee that it decided not to proceed with the Committee's proposal to reduce the existing level as a trade-off against possible improvements in prime time Canadian content, noting that:

> This decision resulted from the general lack of enthusiasm for the proposed approach on the part of many submissions before and during the 30 September 1986 public hearing, including those of the Canadian Association of Broadcasters, the Association canadienne de la radio et de la télévision de langue française, l'Union des artistes, ACTRA, la Fédération professionnelle des réalisateurs, The Canadian Conference of the Arts, L'Association des producteurs de film ou vidéo du Québec, le Syndicat canadien de la fonction publique, The Directors Guild of Canada and Altantis Films Ltd. [CRTC Response to Questions, Private Television, Question 23.]

General agreement is lacking, however, on the issues of defining a Canadian program or establishing a 45 percent Canadian content requirement for the 7 p.m. to 11 p.m. period. Defining a Canadian program affects not just the CRTC, but also Telefilm Canada and acceptance of a program for purposes of the CCA. The essential issue is whether to encourage the production of programming in Canada for economic and industrial benefits, or to encourage programs genuinely Canadian in character, including both popular entertainment and minority interest programs. Since this is an issue that does not just affect the CRTC's regulation of television broadcasting we address it more fully in Chapter 5.

However, the Committee did ask the Minister of Communications for her views on whether private TV broadcasters should "be expected to contribute to achieving cultural goals and to provide identifiably Canadian entertainment programs", or should "be expected simply to play a role in getting more TV series, mini-series and other entertainment programs made in Canada without regard to the character of the programs?" The Minister's response was that they should contribute to cultural goals. She also offered the following comment:

> It is currently believed that the risks are greater for "identifiably Canadian" programs, but I am confident that experience will show this to be an ill-founded assumption. Ratings have shown that Canadians do welcome identifiably Canadian shows, and these will be able to earn foreign audiences as well, when their reputation is established. [Response by the Minister, p. 43.]

The Committee shares the Minister's view that the Canadian programs provided by private broadcasters should not simply be produced here. Our views on this issue were evident in the Canadian programming objectives we proposed for a new broadcasting act.

On the final issue, it has been more difficult for the Committee to reach a conclusion. Obviously, it is an essential part of the Broadcast Fund initiative that more Canadian entertainment programs should appear in the time period between 7 p.m. and 11 p.m. Broadcast Fund projects cannot qualify for support unless they are to be shown in this period. Over the past five years the Government of Canada has spent $250 million supporting the production of Canadian programs intended for this period, at least half of which was available for projects to be carried on private stations and networks.

At present, the CRTC's Canadian content quota for the 6 p.m. to midnight period creates a minimum requirement that 25 percent of the programs shown between 7 p.m. and 11 p.m. must be Canadian. Increasing that requirement to 45 percent does not concern French-language broadcasters, since it is a level they regularly surpass, as does the CBC in both its English and French services. However, in the case of English-language private broadcasters, essentially CTV and independent stations, the Committee heard strenuous objections to any increase at all. The extent to which these broadcasters depend on showing foreign programs in this key period is evident in the fact that only 20 percent of the viewing of CTV affiliates or independent English stations is of their Canadian programs.

Part of the Committee's difficulty in making a judgement on reasonableness of the Task Force recommendations stems from the fact that the CRTC has not monitored the extent to which Canadian content in the 7 p.m. to 11 p.m. time slot has increased since the Broadcast Fund was established in 1983. However, the CRTC offered the following comment:

> The Commission is confident that the quantity of Canadian programs broadcast by private broadcasters between 7 and 11 p.m. has increased since 1983. CRTC analysis of BBM Data indicates the total volume of English-language Canadian television drama scheduled over the entire broadcast day has increased from about two percent in 1984 to seven percent in 1986. This increase is due both to the inception of the broadcast fund and to various licensing, licence renewal, and policy decisions on the part of the Commission. [CRTC Response to Questions, Private Television, Question 11.]

In explaining its opposition to any increase the CAB made the following statement:

> The scheduling of U.S. prime time programs is crucial to the ability of Canadian private broadcasters to acquire, produce and broadcast Canadian fare. The Task Force itself notes that the one-third of budgets devoted to foreign programming derive the majority of revenue needed to provide Canadian programming. Any further limitations on the scheduling of U.S. programming during prime time would result in losses of audiences and revenues for Canadian broadcasters. Moreover, many of the benefits currently derived from the CRTC's simultaneous substitution policy would be lost. [Submission by the CAB Television Board, p. 10.]

The Committee notes that the CBC's experience contradicts this assumption, since CBC audiences have held firm and advertising revenues have increased since 1983 while Canadian content in prime time has risen to 80 percent. What is not in question, however, is that the Canadian programs shown by private broadcasters would cost more than the American programs they replace. As we saw in the introduction to this discussion of private television, these broadcasters clearly have the financial capacity to increase their expenditures on Canadian programming and, in their submission to the Committee made the following statement, drawing our attention to their increased expenditures:

> The CTV Network, for example, is committed to increasing its Canadian drama by 300 percent. Global is increasing its Canadian program expenditures from $2.15 million to $5 million — a 230 percent jump. TéléMétropole (Vidéotron) has made a programming commitment of $19.5 million to independent Canadian production over a five-year period beginning September 1987. And the list goes on to include major commitments by such broadcasters as CanWest, New Brunswick Broadcasting and Quatre Saisons.
>
> Téléfilm Canada recently noted that private broadcasters have increased their participation with the Broadcast Program Development Fund proportionately more than public broadcasters. Similarly, private broadcasters have markedly increased their stake in actual dollars — from $6 million in 1983-84 to $27 million in 1986-87 — as well as their overall share of Canadian production budgets. [Submission by the CAB Television Board, p. 9.]

In commenting on the Task Force's peak-viewing proposal the CRTC indicated that it had considered several options designed to increase Canadian content in the peak viewing periods when it was revising its television regulations. The Commission stated that:

> It is the view of the Commission that it would be inappropriate to impose uniform Canadian content requirements for the viewing period from 7 p.m. to 11 p.m. upon all television licensees.
>
> Nevertheless, the Commission is concerned that private television licensees make every effort to increase and improve the quantity and quality of their Canadian programming, particularly entertainment programming, during peak viewing periods.
>
> Accordingly, the Commission takes the view that a more effective means of ensuring reasonable levels of quality, peak-time Canadian content is to impose specific conditions of licence where appropriate. In decision CRTC 1986-1086 renewing the licence of Global Communications Ltd. and in decision CRTC 1987-200 renewing the licence of the CTV television network, conditions of licence were imposed which require the licensees to broadcast specific hours of Canadian entertainment programming during peak viewing periods. The Commission intends to continue this approach with all television licensees on a case-by-case basis, as required. [CRTC Response to Questions, Private Television, Question 12.]

We do not in the circumstances feel we are in a position to pronounce on the 45 percent regulation the Task Force proposed. The essential point is that peak-time Canadian content on private television must increase. This is part of the general approach we are proposing.

Recommendation 57

> Private television stations and networks must be required to commit greater resources to Canadian programs. The CRTC should use conditions of licence to require that stations and networks make expenditures for internal production of, or acquisition of the right to exhibit, Canadian programs consistent with their financial and other resources.

Recommendation 58

> The CRTC should ensure that the productions private broadcasters telecast to meet their Canadian content requirements are of high quality and include a substantial proportion of programs in the categories now most inadequately represented on private Canadian television.

Recommendation 59

> The CRTC must ensure that its definition of a Canadian program will result in Canadian performance programming that reflects the objectives of Canadian broadcasting policy as stated in the *Broadcasting Act.*

Recommendation 60

> The CRTC should, for conventional off-air broadcasters, maintain the requirement that 60 percent of all programming and 50 percent of the programming scheduled between 6 p.m. and midnight must be Canadian.
>
> The CRTC should establish higher Canadian content requirements as well for the 7 p.m. to 11 p.m. period and should monitor and regularly publish data on the extent of Canadian programming provided in this period, both overall and in specific time periods, by each category of broadcaster.

3.5.8 Alternative Approaches to Canadian Content Regulation

In light of the high profits achieved by private broadcasters and the feeling that the Commission has not asked broadcasters to do enough in return for their use of a scarce public resource, other approaches have been studied. In August of 1987 the Minister of Communications asked the Committee to consider alternatives. When the Minister responded to the Committee's written questions in November, she made reference to a research study which her department had commissioned to explore the option of a performance incentive approach to encouraging Canadian programming.

In a letter of transmittal sent to the Committee on March 29, 1988 the Minister noted that the study on performance fees she was submitting to the Committee examined three alternative models of the performance incentive program. She noted, however, that "As Nordicity (the consulting firm involved) itself takes pains to point out, the particular formulae are presented for the purposes of illustration of the concept, and more work will be required before any specific formula could be put forward and implemented." [Letter from the Honorable Flora MacDonald to Mr. John

Gormley, Chairman, Standing Committee on Communications and Culture, March 29, 1988, p. 2.]

The performance fee essentially provides that all private television broadcasters become liable for the payment of a new fee to the CRTC as an obligation under the terms of their licence. If they then meet designated obligations either to exhibit targetted Canadian programming in the evening hours, to spend a designated amount, or to meet a point requirement, they would be relieved of part or all of their financial obligation.

The appeal of this approach is that it would require far less discretion from the CRTC and entirely remove any concerns broadcasters might have about fair treatment. A well-designed system could effectively ensure that resources went to Canadian programs and that specific kinds of programs were exhibited in peak viewing time. There is, however, nothing at all that prevents the CRTC from ensuring greater expenditures on Canadian programming now or from ensuring the exhibition of more Canadian programming or specific kinds of Canadian programs.

Not surprisingly, the CAB is not in favour of this approach, characterizing it as "a negative incentive" and expressing the view that "The proposal is an apparent contradiction, and is inconsistent with the direction of both the Task Force and Standing Committee recommendations". [Submission by the CAB Television Board, p. 3.] The CAB prefers the Task Force approach and favours positive, rather than negative incentives. One of the concerns the CAB raised was that broadcasters might in fact choose to buy their way out of any requirement that is set, simply paying the fee instead of financing or exhibiting Canadian programs. This concern is serious and would have to be addressed if such an approach is implemented.

The Committee is not opposed in principle to taking this new approach, although we believe the issues raised are complex and would require additional careful study. Indeed, before any action were taken to implement such an approach it would be essential to hold a full public hearing and undertake additional research. At present the CRTC does not have the authority to adopt such an approach and the *Broadcasting Act* would have to be amended for that purpose.

The Committee understands the motivation for examining a more effective approach to regulating private television. However, if the government simply amends the act to make it possible for the Commission itself to use this approach, it is not clear that the Commission is likely to implement a firmer policy than the present one. Moreover, as we noted above, nothing prevents the Commission now from asking more of its licensees.

Recommendation 61

> If additional mechanisms are adopted to regulate Canadian content on private television, the approach taken should be to make provision in the act for the CRTC to take such action, and any new approach should include a continuation of existing quantitative Canadian content requirements. Before implementing an alternative approach based on licence or performance fees a full public hearing should be held.

3.6 Pay Television and Specialty Services

3.6.1 Introduction

In this chapter, the Committee considers a number of issues and problems relating to the licensing and distribution of pay television and specialty programming services in Canada. These services were first licensed in 1982; their number has steadily increased, raising complex issues of public policy. Moreover, with the release on November 30, 1987, of the CRTC's decisions approving a host of new services, the debate over their role and structure has been refuelled.

The Committee dealt with specialty service policy issues in its Fifth Report, issued in April 1987. It included a number of recommendations on the carriage of specialty services, their ownership, and the place of non-Canadian specialty services for the CRTC to consider in connection with its hearings and deliberations during the summer of 1987.

Now we re-examine some of these questions in light of the Commission's decisions of November 30, 1987. We also comment on the evolving structure of the industry.

3.6.2 Pay Television Services

Since the general-interest pay television services were licensed in 1982, their brief history has been a rerun of the "Perils of Pauline". The arts and culture service, *C Channel*, went bankrupt after operating for only five months. Most of the regional services went bankrupt or were merged. The national service required a major infusion of funds from new owners. After a significant reorganization in 1984, brought on by spiralling deficits and the imminent introduction of the specialty services, the structure of general-interest pay television took the following lines:

- *First Choice*, primarily showing movies, serving over 500,000 subscribers in eastern Canada.

- *Allarcom Pay Television Limited*, a merger of the *Superchannel* licensees, operating a similar English-language service in Western Canada, serving close to 200,000 subscribers.

- *Super Écran* operating a French-language movie-based service in eastern Canada, serving just over 150,000 subscribers.

- *The Family Channel*, scheduled to begin service September 1, 1988, offering family and children's programming, including a substantial portion from the Walt Disney library; subscriber base expected to grow from 216,000 by 1989 to 437,000 by 1993.

The four pay television services are subject to the *Pay Television Regulations*, issued by the CRTC in 1984. The regulations prohibit commercial advertising. With only limited exceptions, the regulations also prohibit the services from producing any of the programming they exhibit. Because all of the pay services are owned and controlled by companies that have no cross-ownership ties with cable television, there is no vertical integration with the production or exhibition functions.

Canadian content requirements were set by conditions of licence. Based on the optimistic subscriber projections filed in 1981, the Commission set relatively stringent Canadian content conditions the next year. Compliance, together with lower subscriber revenues and massive marketing expenditures, resulted in spiralling deficits for each of the services. The Commission responded in 1986 by reducing the Canadian content requirements. These levels were to be reviewed in the license renewals of the three general-interest pay services in June, 1988.

Current licence conditions require each of the services to spend at least 20 percent of gross subscriber revenues on acquisition of, or investment in Canadian programming. In addition, they are required to exhibit at least 20 percent of non-prime hours (30 percent during evening viewing hours) using Canadian content. *The Family Channel*, which will be a 19-hour-a-day service rather than 24 hours a day, will have a Canadian content quota of 25 percent overall, rising to 30 percent during evening hours.

While the licensees' contribution to independent Canadian production has been much smaller than initially expected, it has nevertheless been significant. Table 3.15 shows the Canadian content expenditures by licensees (and their predecessor firms) to August 31, 1987, and projected Canadian content expenditures for the next five years.

Table 3.15 Pay Television: Canadian Content Expenditures

	Actual Feb. 1, 1983 - Aug. 31, 1987 ($ millions)	**Projected** Sept. 1, 1987 - Aug. 31, 1992 ($ millions)
Allarcom Pay Television	25.5	24.4
First Choice	51.5	48.1
Super Écran	11.4	20.7
The Family Channel	--	20.0
Total	**88.4**	**113.2**

Source: Audited Financial Statements of Licensees; Application for Licence filed in April 1987 by *The Family Channel* and Applications for renewal filed by February 1988 by each licensee. *Allarcom* and *Super Écran* numbers include all predecessor firms; *First Choice* does not include *Premier Choix* expenditures which have been added to *Super Écran*. The projected expenditures in the second column were tied to specific subscriber penetration assumptions. In the case of *First Choice, Super Écran* and *The Family Channel,* alternative subscriber projections were also supplied; the numbers above reflect the most conservative projections filed. *The Family Channel* numbers apply to the 5-year period commencing September 1, 1988, and reflect increases imposed in the fourth and fifth years by the CRTC in Decision CRTC 87-905, depending on subscriber projections.

These figures show graphically the benefits of having Canadian-owned pay television. In addition to providing a window for virtually all Canadian feature films, the services make a significant contribution to the financing of Canadian dramatic productions — the programming genre most underrepresented in conventional television. Through mechanisms like the Foundation to Underwrite New Drama for Pay Television, the industry has also begun to provide meaningful support for script and concept development. While the deficits of the licensees are still significant (*First Choice*'s cumulative deficit still stood at over $36 million on August 31, 1987) the licensees expect to reduce them to zero by the end of 1991.

The issue the CRTC must address in the current renewal hearings, based on the audited financial statements of the licensees and input from interested parties, is whether the pay services are doing as much as they should. The Committee contends that as the subscription base for pay television expands, Canadian content requirements should be increased. The Commission should also consider whether the contributions of licensees should focus more on licence fees than on equity contributions. We also support the recommendation of the Task Force that the CRTC conditions of licence for pay television services should be designed to ensure the exhibition of most of the Canadian feature films being produced. [*Report*, p. 180.] In this connection, Canadian film production levels should be monitored to determine whether adjustments are appropriate, and what provisions should be made for alterations in the conditions of licence.

The Task Force Report also recommended that the CRTC continue to prohibit the importation of American services that directly affect the viability of comparable Canadian pay channels. In practice, this has meant that the CRTC has declined to authorize services such as *Home Box Office*, *The Movie Channel*, *Showtime*, *Cinemax*, and *The Disney Channel* for carriage by cable systems in Canada. Such services have no Canadian content requirements, and their entry into what is already a limited (Canadian) market would clearly erode the capacity of the existing licensees to make the contribution which we believe is required. The Committee supports fully the recommendation of the Task Force in this regard.

Recommendation 62

> In setting Canadian content requirements for the next licence renewal term, the CRTC should consider the contribution that pay operators can reasonably and realistically make as their subscription bases expand. Careful consideration should also be given to the question of whether this contribution should be made by licence fees or through a combination of licence fees and equity investment.

Recommendation 63

> The CRTC conditions of licence for pay television services should ensure the exhibition of most Canadian feature films being produced. In this connection, Canadian film production levels should be monitored to determine whether adjustments are appropriate, and provisions for adjustments should be made in the conditions of licence.

Recommendation 64

> The CRTC should continue to prohibit the importation of American pay television services which compete directly with, and will directly affect the viability of comparable Canadian services.

3.6.3 Specialty Services

The evolution of specialty satellite-to-cable services in Canada has been even more complex than that of pay television. Unlike pay television, which carries no commercials, specialty services are typically funded by a combination of advertising revenue and a monthly charge per subscriber to the cable system operator; they do not rely exclusively on subscriber fees for revenue.

A short history of the licensing of specialty services in Canada is provided at pages 482-485 of the Task Force Report. Until 1987, such services were required to be carried on a discretionary tier; they were not permitted on basic cable service. This requirement changed with the release of the Commission's decisions on November 30, 1987. From September 1, 1988, the new regime will permit *all* the specialty services other than the ethnic services to be added to basic cable service at the discretion of the particular cable system, with the wholesale rate and a stipulated add-on fee permitted to be passed through and added to cable subscribers' basic rates. In the case of *TSN* and *MuchMusic*, either basic or discretionary carriage is permitted; in the case of all other services, both in French and in English, the choice is either to carry the services on basic or not at all. Until August, 1991 cable systems which serve a primarily francophone area must, if they choose to carry any of the licensed French-language specialty services, carry them all.

The Committee's Fifth Report, as noted above, contained a number of recommendations on structure and policies for new specialty services. It is now possible to comment, at least in a preliminary way, on the extent to which the Commission took these recommendations into account. The Committee has also considered the extent to which its recommendations continue to be valid and appropriate.

TYPE OF PROGRAMMING

Two of the recommendations focused on the types of service that might merit a specialty licence. The Committee expressed the hope that a new not-for-profit Canadian satellite-to-cable service could be established (in both French and English). The emphasis would be on a national showcase for productions from all regions of Canada, offering high quality Canadian children's and youth programs and other categories of Canadian programming, such as performing arts productions, which are not well provided by existing television services. The Committee added that, ideally, these services should be available on a non-commercial basis, recognizing that the Canadian television advertising market is already fragmented. The Committee added that if the CRTC did not receive proposals adequately responding to these needs, it should ensure that its decisions "leave open the option of establishing these services later, ensuring that there still will be adequate channel capacity and scope for any appropriate charges". We return to this issue in Chapter 5.

Obviously, the Commission's choices were limited to the applications before it. Of the programming categories identified as priorities in the Committee's recommendation — regional drama and variety productions, children's programs, and performing arts productions — only the category of children's programs was reflected in the services approved on November 30. Two specialty services — *YTV Canada* and *Canal Famille* — will offer programming for children and youth although, regrettably, expenditures for *new* Canadian children's productions will be limited. While there was an application proposing a non-profit service to provide a vehicle for regional and performing arts as well as children's programs, the Commission declined to approve it, citing "serious weaknesses" in the application.

Although the Commission is still open to consider applications in areas which have not already been licensed, it must be recognized that these options are now reduced as a result of the Commission's decisions. With the music and sports services available on basic cable and the licensing of new basic services in the news, weather, children's, and religion categories, there is now only limited room for subscriber rate increases which can accommodate services concentrating on performing arts, regional productions, and other types of Canadian programming now in very limited supply.

Insofar as the Canadian content level of the new services is concerned, the Committee notes that the CRTC has adopted one of the recommendations contained in its Fifth Report, namely that "any Canadian specialized service licensed for carriage on basic service should meet the same Canadian content requirement as applies to conventional broadcasters". This rule has been implemented by the Commission except for *TV-5*, an international service warranting exceptional treatment.

In addition to its concern that the decision does relatively little to Canadianize programming in categories now underserved, the Committee is also concerned with the fragmentation effect of so many new specialty services, which may create serious problems. This is particularly worrisome because all the specialty services except *TV-5* and *Canal Famille* will be permitted to carry advertising. The Commission has estimated that the aggregate impact is approximately the same as licensing one new independent television station in each of the French- and English-language markets. That would be problematic enough for small market broadcasters, but the Commission's assessment may underestimate the real impact. Moreover, if advertising revenues do not materialize rapidly enough to sustain the specialty services, there will be considerable pressure by such services to widen their programming mix to match the programs on conventional television, leading to program siphoning and further audience fragmentation.

Recommendation 65

> The Commission should closely monitor the effect of the introduction of the new specialty services on conventional broadcasters, particularly with regard to fragmenting audience.

Recommendation 66

> The Commission should ensure that the specialty services scrupulously adhere to conditions of licence limiting their programming to the specialty categories they have chosen and that such programming not be allowed to overlap with conventional broadcasting.

ACCESS TO CABLE

A second group of issues raised by the November 30 decision relates to the rules governing carriage of the newly licensed services on cable. The Committee did not suggest that any specialty services be given *mandatory* carriage and this approach was endorsed by the Commission in its decision. At the same time, however, it is obviously crucial that the services be treated on a fair and equitable basis by cable and that their packaging and marketing be subject to supervision. In that connection, the Committee recommended in its Fifth Report that no specialty or pay television service should be co-owned by a cable television system "unless the Commission can satisfy the concerns of existing and potential licensees that there will be fair and equitable treatment". [Appendix V, Recommendation 8.]

In its decisions the CRTC did licence a service, *YTV Canada*, which is owned substantially by cable system operators. As the Committee recognized in framing the recommendation referred to above, the Commission is not in any way limited by the present *Act* from doing so. Moreover, in licensing *YTV* the Commission did establish a number of safeguards designed to limit the potential for the owners to give that service preference at the expense of other licensed specialty services that are independently owned.

However, the Committee continues to feel that there are unacceptable risks involved in common ownership of cable systems and pay, specialty or other comparable services. The basis for these concerns is described in our Fifth and Sixth Reports. In our Sixth Report we, therefore, recommended that a new broadcasting act should provide that no cable system may have an ownership interest in, or be in common ownership with, such services.

The CRTC decisions still leave cable operators substantial room to exercise arbitrary control over access in the first place. The CRTC ground rules still leave the ultimate decision on services to be added to basic cable to individual cable licensees. The Committee appreciates that this approach accommodates the need for flexibility. However, it is vital that cable licensees — given an exclusive franchise territory as they are — exercise this discretion in the public interest and not in their own private interest. The Commission has indicated that if the carriage of the specialty services does not occur in an orderly manner, it may deal with carriage and access issues by means of regulation. This underlines the delicate balance created by the decisions.

The Committee is aware that the Canadian specialty services the CRTC has licensed are heavily dependent for survival on the decisions of a few major participants in the cable industry. If any of the licensed French-language services are not carried by Vidéotron, for example, they are unlikely to survive. Similarly, while concentration is not quite as high in the English-language component of the cable industry, the decisions of Rogers and Maclean Hunter will determine the success of the licensed English services. While the Committee respects the Commission's desire to maintain a measure of flexibility in its approach to the development of specialty services, we recognize that there is the potential for a very limited number of licensees to, in effect, veto the initiative the Commission has taken to add a significant number of new, predominantly Canadian specialty services in both French and English to the Canadian broadcasting system. The Commission has both the responsibility and the authority under the *Broadcasting Act* to ensure that this does not happen.

Recommendation 67

> The Commission should be prepared to take appropriate action if cable television licensees deny access to specialty services on grounds that are discriminatory or not in the public interest.

Recommendation 68

> As recommended in the Committee's Sixth Report, new broadcasting legislation should contain a provision that would not permit the licensing of pay or specialty services owned by, or in common ownership with distribution undertakings. [See Appendix VI, Recommendation 51.]

CARRIAGE OF U.S. SERVICES

The distribution of non-Canadian specialty services provided for in the November 30 decisions raises two questions:

1. The structure of the decisions may provide cable companies with an incentive to keep *TSN* and *MuchMusic* as "discretionary services", but to add them to an "extended basic" tier of U.S. specialty services, leaving the Canadian pay television services to a premium tier. *TSN* and *MuchMusic* would presumably find this approach acceptable since it delivers most cable homes to them; cable operators, for their part, would receive increased revenue because discretionary rates would continue to be unregulated. But is the delivery of the American services to the extended basic universe in the public interest and consistent with the goals in the *Act*?

2. The CRTC has added five new American services to the authorized list of services which may be carried on a discretionary basis, but only if these are linked with the pay services. Apart from the copyright problems, will the introduction of these services cause problems in respect to program rights in Canada? Also, how much fragmentation will these additional services create?

These issues may be critical for the evolution of the Canadian broadcasting system. The Committee directed a number of questions to the CRTC about them. The responses, to the extent they dealt with the questions, clearly indicated a need for further study.

In assessing these issues, it is instructive to review the proposal of the Task Force on the "retiering" of cable service, set out on pages 580-582 of the *Report*. The Task Force suggested that the basic cable tier should consist of the existing Canadian conventional television stations, the community channel, and a select number of Canadian specialty services (TV Canada, and all-news). A second tier, to be offered on what is often referred to as a "negative option" or "extended basic" approach, would include additional Canadian specialty channels (subject to higher Canadian content requirements), the 3+1 signals from the U.S., and any additional American signals now carried on basic service. The premium tier would then be left to the Canadian movie channels, the Canadian specialty channels that chose not to meet the requirements for carriage on the extended basic tier and American specialty channels which complement licensed Canadian services.

For English-language cable television homes, the effect of the Commission's November 30 decisions may have been to create incentives to implement a different tiering structure. The basic tier can include up to four Canadian specialty services (news, children's, weather, and religion) in addition to the conventional Canadian stations, the community channel, and the 3+1 American signals. The "extended basic" tier might include *TSN*, *MuchMusic* and up to four specialty services from the U.S. (e.g. *CNN*, *Arts and Entertainment*, *Nashville*, *FNN*, etc.). The premium tier would have the Canadian pay channels plus the additional American specialty channels added on November 30 (*USA Network* and four "superstations").

This alternative approach raises major public policy concerns. In particular, the inclusion of American satellite services on the extended basic tier typically puts these services in over 75 percent of the cable homes. If they continue to be relegated to a premium tier, however, they will receive penetration levels of only 15 percent or so. We comment elsewhere in this report (see Chapter 8, Copyright) on the problems presented by the North Americanization of program rights. The Committee considers that these issues are raised anew by the implementation of "extended basic" tiers which include U.S. satellite services. We therefore urge the Commission to review this matter carefully, to ensure that the implementation of such tiers does not upset the benefits that otherwise might flow from its recent licensing decisions.

Recommendation 69

> The Commission should review the extent of the implementation of "extended basic" tiers which include American specialty services and, further, should prohibit the distribution of such services on that basis if the "extended basic" approach materially expands access by such non-Canadian services to Canadian homes.

Recommendation 70

> The Commission should review the program rights questions that arise with the introduction of American satellite services, taking into account the recommendations on copyright and licensing policy in Chapter 8.

3.7 Pay-per-view

3.7.1 Introduction

Pay-per-view television allows viewers to pay for just the programs they watch. Most Canadians will be familiar with pay-per-view television in the context of the hotel market, where these systems have been in operation for a number of years. This mode of delivery is unregulated at present.

Since 1986, pay-per-view systems have begun to emerge in the United States where cable television systems are used to deliver pay-per-view programs to cable subscribers in their homes. While in 1986 only 0.1 percent of the revenue of the American motion picture studios was accounted for by pay-per-view systems, this is expected to increase to 2 percent by 1990. (This contrasts with revenue from pay-per-channel systems of 11 percent in 1986, which is expected to decline to 9 percent by 1990.) [*Broadcasting*, December 14, 1987, p. 81.]

The technology of pay-per-view has also advanced considerably since its introduction. Addressable decoders now allow the cable company to clear a subscriber's signal on demand from a central location. The other side of the operation is to collect the customer's orders. In a few cable systems which have two-way interactive capability, orders can be entered by the cable subscriber on a terminal in the home. However, the technology most likely to be used combines a one-way cable system with the telephone. The cable subscriber phones in an order to view a particular program, either to an operator or to an automatic number identification (ANI) system, which automatically reads the client's telephone number and then clears the client's decoder. The charge for the pay-per-view event can be added to the telephone bill.

Pay-per-view television has been addressed by policymakers in Canada on a number of different occasions. The CRTC most recently considered pay-per-view in 1986, calling for written comments in May and issuing its conclusions in November. The Commission reiterated a statement made by the Chairman of the Commission in April 1985:

> Pay-per-view should not deflect the energy and interest of the industry away from the major challenges of ensuring the success of existing services. We are not convinced that pay-per-view service is such a magic answer; it has had a questionable track record in the U.S. In fact, it is not really working yet. However, at an appropriate time, it is worth exploring with the industry whether we can map out under which circumstances pay-per-view could be introduced. [Public Notice CRTC 1986-110, May 13, 1985, at pages 1-2.]

In its November 1986 decision, the Commission concluded that it would be inappropriate to permit the introduction into Canada of pay-per-view services at this time, citing:

(a) there was no valid comparable experience upon which to rely;

(b) there was no conclusive evidence that there existed an urgent need for pay-per-view services;

(c) there were divergent opinions as to the potential impact of the introduction of pay-per-view services on the existing pay-per-channel services, and as to the benefits to Canadian producers or distributors;

(d) it had not been demonstrated by those favouring the introduction of pay-per-view how the service would contribute to enhancing the Canadian programming policy objectives of the *Broadcasting Act* for a predominantly Canadian broadcasting system.

However, the Commission encouraged parties to continue to pursue relevant studies in contemplation of a further review at a later time. [Public Notice CRTC 1986-313, November 4, 1986, at pages 5-6.]

The Canadian Cable Television Association, one of the proponents of pay-per-view, was disconcerted by the CRTC putting the potential service on hold:

> We need only go back a few years to see how the delays in the introduction of discretionary services, in particular, pay-TV, completely stifled cable expansion in terms of distribution capability.... The immediate effect is that the Canadian cable industry starts to fall behind in developing its technologies, particularly in the area

> of two-way capability which could in turn spur on the development of other transactional services. [*Minutes*, 69:77-78.]

Apart from the argument of developing new technology, we also heard from cable companies who focussed on the competitive pressures presented by home video outlets:

> In Saskatoon there are approximately 35 video stores or, I understand, about 110 outlets providing video movies on a rental basis in competition with our cable service. We view video rentals as a legitimate form of competition to our service. However, our complaint is that while following the rules set out by the CRTC we are unable to compete effectively with the video movie rental business... we believe it important that the industry be given the opportunity to innovate with pay-for-view to work out ways and means to compete effectively. [*Minutes*, 44:88.]

The Committee heard a number of conflicting submissions on the possible impact of pay-per-view systems.

3.7.2 Type of Programming

While pay-per-view systems in the United States have made selective use of high-ticket events, such as prize fights, the overwhelming fare has been the use of blockbuster movies. If, as the cable industry has made clear, it wishes to position pay-per-view systems as a direct competitor to home video, it follows that it will need to focus on showing the U.S. and other foreign blockbusters. Moreover, it will need to be able to obtain a "window" for these movies on a basis at least as favourable as that for home video, i.e. six months or more before those movies can appear on the pay-per-channel movie services.

There is hope expressed in some quarters that pay-per-view systems might be able to focus on cultural events. One broadcaster, CUC Limited, for example, proposed to "start off with only Canadian drama, concerts, productions and events." [*Minutes*, 66:136.] They saw the National Art Centre, Place des Arts, Roy Thomson Hall and Queen Elizabeth Theatre as venues which could generate programs, and thought pay-per-view ought to feature live rather than taped productions.

When the Canada Council appeared before the Committee to promote more performance and arts programming on television, however, they questioned whether pay-per-view could help in making the storehouse of Canadian talent more widely available:

> I would suggest that pay-per-view would work for the arts but only in the case of Pavarotti meets Placido Domingo meets Joan Sutherland. These people have been made established stars throughout North America because of their appearances, principally on PBS... We have first to make stars. The public has to be motivated to go to pay-per-view, and the public will only be motivated if there is something they want to see. What they would want to see today would be Baryshnikov and Domingo and Pavarotti. Pay-per-view may eventually have a role for the arts in Canada, but not until we have done some ground work. [*Minutes*, 68:14.]

The Canada Council's skepticism is supported by the experience of C-Channel, the specialty (performing arts) pay service introduced in 1983. In its brief existence, C-Channel managed to obtain only 25,000 subscribers across Canada and eventually went bankrupt five months after its launch. The distribution of cultural programs on a pay-per-view service would be even more problematic, since the number of orders would probably be just as small, and a much greater proportion of the revenue would be taken up with marketing costs and the costs associated with the technology of order-taking and descrambling. It does not appear, therefore, that a pay-per-view service would provide any meaningful support for cultural events, particularly Canadian. The principal fare will undoubtedly be movies released during the home video window and prior to their release on the pay-per-channel services.

Concern has been expressed in certain quarters that pay-per-view systems might "siphon" programming presently seen on free television, e.g. the Stanley Cup finals, the Grey Cup game, and so on. The Committee heard no evidence that this would be likely to occur.

3.7.3 Impact of Pay-Per-View

How would pay-per-view affect the cable television industry, the home video environment, and the existing pay-per-channel licensees?

The impact on cable television would presumably be positive in revenue terms. A degree of risk comes with any new service, but cable systems can make use of their existing plant and expand their base of addressable descramblers. The suggestion of the CCTA that pay-per-view would spur the introduction of two-way capability is doubtful, since the consensus of those filing comments on this matter with the CRTC was that two-way cable operations would not be necessary.

An impact will also be obvious in the home video market. Assuming pay-per-view systems can obtain a window for their movie products on the same basis as home video, pay-per-view systems could significantly erode the videocassette rental market, particularly in the early weeks of release when the demand for new shows generally exceeds supply.

An obvious concern of the program suppliers is the possibility that pay-per-view systems will facilitate illegal copying which would even further depress videocassette rentals. However, new developments in technology may make it possible to distribute pay-per-view programs on a basis that prevents copying by consumer VCRs.

The pay-per-channel services do make a significant contribution towards Canadian content production. As noted in the previous section, while their Canadian content requirements were lowered in 1986 to take account of the failure of expected subscriber penetration, the services continue to be required by condition of licence to have 30 percent Canadian content on-the-air in evening viewing hours (20 to 25 percent in other hours), and to expend at least 20 percent of their gross subscriber revenue on investment and acquisition in Canadian production. (These requirements are under current review in the renewal hearings of the licensees.)

If one of the effects of introducing a pay-per-view system in Canada — particularly a system making little or no contribution to Canadian content production — is to erode the penetration of the pay-per-channel services which do make such a contribution, then it may be questionable whether the trade-off is worth it.

While the evidence is by no means conclusive, there appears to be a substantial likelihood that the introduction of a pay-per-view system in Canada would cause major harm to the pay-per-channel services. The CCTA has stated that cable subscribers who traditionally purchase premium services have been found to be the best market for pay-per-view services. A pay-per-view service would probably not compete directly with a pay-per-channel service that does not focus on first-run movies, such as the recently licensed Family Channel, which will focus on family and children's programming. However, a pay-per-view service which focuses on foreign blockbusters would probably pose serious difficulties for the pay-per-channel general interest movie services, which are vitally dependent upon the same repertoire of movies, but cannot exhibit them until at least six months later.

3.7.4 Support for Canadian Content Production

It was generally recognized by the witnesses before the Committee that a pay-per-view system would provide relatively little support for Canadian content production. Cable operators recognized that Canadian content requirements might be imposed on pay-per-view systems, but this would not be likely to generate any meaningful revenue for those programs. As Maclean Hunter Cable TV pointed out:

> I think there could very well be Canadian content requirements in programs that are made available. A pay-per-view supplier could have a requirement to provide a certain percentage of Canadian movies. Unfortunately, you cannot determine who is going to buy those movies... this kind of requirement would be useful to the Canadian movie producers. At least their product would then get out there. If nobody watch it, it would be their fault and not anybody else's. [*Minutes*, 66:109.]

The CCTA was asked about the contribution pay-per-view could make to achieving the programming goals set out in the *Broadcasting Act*.

> There is no question, and I think we make no secret of it, having pay-per-view meet a positive test of benefits to the Canadian broadcasting system, which is the CRTC's perennial question, was always of difficulty to us because, quite frankly, I think we had difficulty thinking of the quantifiable number of Canadian events that would lend themselves to pay-per-view. [*Minutes*, 69:108.]

On the question of contribution to Canadian content, it is also important to note a vital distinction between the payment mechanism for pay-per-view systems and that for pay-per-channel systems. In the pay-per-channel services, the program suppliers of new movies are generally paid on a per-subscriber basis. The fee per film will be based on a per subscriber payment. No effort is made to assess how many subscribers watch any particular film. Canadian filmmakers are therefore able to obtain a payment for their films that is significantly higher than the payments made for equivalent foreign films.

The pay-per-view payment approach is completely different. The program supplier generally obtains a percentage of the revenue derived from the showing of the particular film, typically 50 percent or more. In this regard, the pay-per-view system is little different from the theatrical exhibition market, where revenues are also segregated on a per-film basis. That being the case, there is no reason to suppose that the revenue contribution towards Canadian content films in a pay-per-view system would be any higher than the figures applicable in the theatrical and home video markets, i.e. less than two percent.

The suggestion is also sometimes made that the pay-per-view system would make a contribution to Canadian content by virtue of the telecommunication tax payable on the price of the service. This is not in the Committee's view an acceptable response.

3.7.5 Structural Issues

If a pay-per-view system were to be licensed in Canada, certain structural issues would have to be addressed.

To begin with, should there be a proliferation of pay-per-view systems, possibly on a local basis, or should pay-per-view use a satellite-to-cable delivery system accessible by all Canadians?

The Committee considers that the latter approach is preferable by far because a satellite-to-cable system would be capable of reaching small cable systems in remote areas which would only get a delayed service if videocassettes had to be physically delivered. Also a satellite delivery system could reach TVRO dish owners with addressable descramblers as well as cable homes. And, if pay-per-view is to succeed and to contribute to the Canadian broadcasting system, its marketing and administration costs must be minimized. This can only be achieved through a national satellite-to-cable network which could also supply its programs to the direct-to-home and SMATV market across Canada.

A question to be dealt with would be the extent to which cable television systems should be permitted to have an ownership interest in a pay-per-view network. This Committee addressed the question of ownership by cable in programming undertakings in its Sixth Report, with recommendation 51 stating:

> The act should provide that no distribution undertaking may have an ownership interest in, or be in common ownership with, a pay television, specialty or any other network programming service distributed on such undertaking on the basis of a contractual relationship between the licensed network and the distribution undertaking, or where the consent of the network or the distribution undertaking is required for carriage. [Sixth Report, p. 86.]

The principal reason for this recommendation was the potential conflict of interest that would arise with cable ownership, and this would arise equally with pay-per-view systems. The availability, marketing and revenues of a pay-per-view system would depend largely upon negotiations with cable television systems. In such negotiations, the interests of the cable operator, will inevitably conflict with those of network operators, not only with respect to the nature and pricing of the programs offered to subscribers and their respective marketing responsabilities, but also with respect to the allocation of revenues between the cable television operator and the pay-per-view network operator.

Another question is whether existing pay-per-channel services should be permitted to have an ownership position in a pay-per-view network service. There is an obvious concern with this possibility, namely, the increase in concentration that would occur in the pay television marketplace.

On the other hand, there are some obvious benefits that could arise if the pay-per-channel services were permitted to have a significant role in the pay-per-view field. For example, negotiations with American program suppliers would be strengthened by having a common point of purchase for such pay-per-channel window. Also, by allowing the pay-per-channel services to be part of the negotiations with the cable industry on the introduction of pay-per-view, it might be possible to develop structures in which the effects on the existing pay-per-channel services can be minimized, and the possible contribution from pay-per-view towards Canadian content maximized.

One approach that has been suggested is to impose a "buy-through" condition in which pay-per-view could only be bought by subscribers to pay-TV, thus protecting pay-TV subscriptions. While this kind of tied sale presents certain policy problems, another acceptable alternative might be to impose an access fee for all pay-per-view subscribers (to be largely earmarked to the pay-per-channel services to expend on Canadian content) which would be waived in whole or in part if the subscriber were already subscribing to pay television. This access fee could be tied to the need for an addressable descrambler in the home, and would be analogous to the access fees that are becoming common in the United States.

If the pay-per-view network is to involve the pay-per-channel services in a significant way, however, it would be even more important that the Commission's current rules precluding the pay-per-channel licensees from producing programs be strengthened, so that concentration of ownership does not occur on the production side. One of the central features of the present structure of pay television is the requirement that all programming be purchased from the independent production industry. This should equally apply for the pay-per-view network, and if the pay-per-channel services are to be given a role in this service, these rules should be strengthened.

3.7.6 Conclusion and Recommendations

It is not this Committee's job to decide on the merits of particular applications for pay-per-view systems, but to establish a policy framework for debate. The basic test that any such service should meet is to further the objectives set out in the Broadcasting Act. The Committee is doubtful that any of the proposals put forward to date would begin to further these objectives.

At the same time, however, the Committee considers that further study and research is appropriate. In that connection, it considers that the following policy recommendations are warranted:

Recommendation 71

> Pay-per-view sytems should not be licensed by the Commission unless they can be shown to provide positive benefits to the Canadian broadcasting system.

Recommendation 72

> The preferred structure for pay-per-view systems should be on the basis of satellite-to-cable delivery provided by a national network licensee with the ability to serve the DTH and SMATV markets as well.

Recommendation 73

> As recommended in our Sixth Report, cable television systems or other local distribution systems should not have an ownership interest in, or be in common ownership with, the pay-per-view network licensee.

Recommendation 74

Any structure developed for pay-per-view services should maximize the contribution to Canadian content, and minimize any adverse impact on pay-per-channel penetration.

Recommendation 75

The existing pay-per-channel services should not be precluded from being part of the ownership structure of a pay-per-view network; however, if they are not so precluded the rules requiring such services to obtain all of their programming on a non-discriminatory basis from the independent production industry should be strengthened.

3.8 Independent Production

The continuing effort to build a market in Canada for Canadian television programs from independent producers is a relatively new undertaking and has had to overcome huge obstacles. It still faces many more. But over the years a series of instruments has been put in place to support the supply of Canadian independent production and to encourage demand for it. We will briefly review successes and problems here, then take up possible solutions in Chapter 5.

An "independent producer" is one who is outside the CBC and private station and network organizations. Although the question of whether broadcasters should "make or buy" productions has always been an issue in broadcasting, it is only in the past few years that determined efforts have been made to assure independent producers a larger place in the system. The Committee, like the Task Force, believes that an environment should be fostered in which they can play an important role. The Task Force said:

> Implicit in our approach is the judgement that a healthy independent production industry is vital to increase indigenous programming and that, under the appropriate conditions, independent producers can contribute in an expanded way to providing Canadians with their own television programs. [*Report*, p. 368.]

The quality and popularity of the work that can be done by independents is attested to by such programs as (in English) Anne of Green Gables — The Sequel, Heaven on Earth, The Ian and Sylvia Reunion, Degrassi Junior High, Profiles of Nature, and the Raccoons; and (in French) À plein temps, Les fous de bassan, L'Île, Lance et compte, and Traquenards.

As recently as 1979 the involvement of the independents in producing Canadian television programs was very limited, but between 1983 and 1986 Telefilm Canada alone invested $125 million in independent TV productions whose total cost was more than $375 million. In 1973 there were about 150 independent film production companies and only a handful of the companies had revenue of more than $500,000 a year. In 1984 there were more than 300 companies, 30 with annual revenues over $1 million.

The Canadian Film Development Corporation, created in 1967, was an important, though limited, source of support in the early years. In 1983, the CFDC was named Telefilm Canada and given a Canadian Broadcast Program Development Fund, supported indirectly by a new tax on cable services. The Broadcast Fund was to meet "the economic crisis of Canadian program production", and the "cultural crisis" evident in the fact that Canadian drama represented only two percent of all available English-language television drama. While French-language drama and entertainment was in a stronger position, the Fund responded to growing concern that, as competition increased, the budgets of French-language productions had to increase if they were to remain successful. [Canada, Department of Communications, *Towards a New National Broadcasting Policy*, Ottawa, 1983, p. 10.] The Fund would support productions only if they were assured of showing on television in peak viewing hours.

In the meantime, accelerated depreciation for film production had been introduced in 1974, permitting taxpayers to write off 100 percent of the cost of production of a certified Canadian feature film in one year. The Capital Cost Allowance (CCA) was opened to television and short films in 1976, and resulted in a production boom in the late seventies, with theatrical feature films accounting for a substantial majority of production. Subsequent decline was attributed to the limited distribution that the films were able to achieve in an exhibition system dominated by foreign owners. In recent years the CCA incentive has gone through two reductions, including the move to 30 percent a year under the 1987 Tax Reform proposals.

The CRTC has promoted the role of the independent producers in the broadcasting system by conditions of licence requiring Canadian program acquisition from them; by limiting the licensed movie channels to acquiring their Canadian programs from independents rather than producing them in-house; and by efforts to increase expenditures on Canadian programming generally.

The Canadian Broadcasting Corporation was effectively the only television market in Canada for the independents until the mid-1970s. By 1986, when the Corporation formally set a goal of obtaining 50 percent of programming (apart from news, information and sports) from independents, its use of independent productions had risen to 31 percent of English entertainment programming and 36 percent of French.

The National Film Board has also become increasingly involved in independent production projects in recent years, particularly in supplying facilities and services. Through its regional offices, the NFB has been particularly helpful in aiding regional independent production. It entered a 1987 agreement with Telefilm Canada to help regional producers create 12 projects over two years, and is actively involved in French-language film projects.

Independent production is also frequently stimulated — chiefly in French-language projects — by co-production agreements between Canada and other countries. The resulting productions are accorded Canadian content status. Telefilm Canada put $27.8 million into 22 official co-productions in the first four years of the Broadcast Fund. Expansion of co-production arrangements has the potential, however, to dilute indigenous Canadian production; and several such productions have been unsuccessful in part because of their ambiguous character.

Finally, support for independent production has been increasingly forthcoming from provincial programs. Quebec led the way with tax incentives and the Société général du cinéma du Québec. Other provinces with support programs are British Columbia, Alberta, Manitoba and Ontario.

The past few years of development in support for independent producers have been characterized by a shift from movie production, where American interests control distribution and make it difficult to secure exhibition of Canadian-produced films in prime venues, to television production, where Canada has sufficient control of the lines of distribution to assure some exhibition in prime time. Effective as these developments have been, they have also been characterized by a haphazard quality of adding new sources of support without a great deal of attention to general coordination. Production deals today are often an extraordinary package of participants — for example, the CBC, Telefilm Canada, a provincial agency, NFB participation, perhaps a co-production deal with Britain or France for good measure, plus private investors, always taking into account the remaining value of certification for the CCA.

In considering whether this patchwork policy should be altered, we must look at it in relation to the dual problems of finance and access that the independent producers must overcome.

As we saw in the introduction to this chapter, Canadian programming is watched by Canadians to the extent to which it is available. The problem, especially in English-language television, is its limited availability in certain programming categories. The great popularity of high quality Canadian shows when they can be afforded clearly indicates public acceptance. The sheer magnitude of the shortage is indicated by an evaluation of Telefilm Canada's

Broadcast Fund by the DPA Group Inc., released in March 1987. It concluded that English-language drama had undergone the greatest increase in number of hours produced and broadcast between 1982 and 1985, yet viewing of Canadian drama had still only increased from 2.3 percent to 4.5 percent of all English-language drama watched.

Can the Canadian producer profitably make programs to meet this challenge? In 1986-87, the average cost of Canadian production with Broadcast Fund support, including drama, variety, children's and documentary, was $300,000 per hour in French and $500,000 in English, according to Telefilm Canada documents filed with the Committee. During the same period Canadian broadcast licence fees — the fees paid by the broadcasters to carry these programs — amounted to an average of 23 percent of production cost. By comparison, American commercial network fare is produced at a higher cost, sometimes exceeding $1 million an hour, but is generally available to Canadian broadcasters at five percent to 10 percent of that cost.

The Canadian producer must therefore achieve considerable efficiencies to maintain the appearance of high-budget production, combining low earnings from Canadian licence fees with other sources of funding to make ends meet. The harshest effect is on French-language producers, since France and other francophone countries do not represent large enough export markets to provide much offset to domestic shortfalls, and anglophone audiences resist dubbed programs.

When independent producers point out the effects of a weak domestic marketplace with very low license fees on their production capacity and financial viability, they are sometimes told to look at Canadian licence fees on a per-capita basis in making comparisons with other countries. If this approach were accepted, British producers might be expected to recover only 25 percent of their costs in their home market by comparison with American producers, who could recover 100 percent, reflecting the roughly 1 to 4 population ratio. On that same basis English-language Canadian producers might be expected to be happy if domestic licence fees covered more than eight percent of production costs, with Canada's francophone producers at about one-quarter of that level. Clearly that is not the way the financing of television production works.

The reality is that, while Britain's population is roughly one-quarter that of the United States, its producers, like American producers, usually recover all of their production costs in their home market. Also, as the Peacock Committee in Britain pointed out, the major British production companies are able "to exploit an increasingly profitable overseas market at little cost to themselves, since the programmes have been made primarily for the domestic market". (Peacock Committee, p. 17.) Where the population difference between Britain and the United States shows up is in the number of hours of entertainment programming produced, particularly in drama, and in lower budgets.

The inescapable reality of international television is that the producers in the major production countries recover all, or almost all, of their costs in their home market and can therefore sell at very low prices in export markets and still earn a profit. Canadian producers, in contrast, cannot function effectively as producers of distinctively Canadian programs when three-quarters of the revenues needed to exceed production costs must come from outside Canada. They must design productions to pass as non-Canadian, arranging a sale to an American broadcaster in advance. This, of course, is an option open only to English-language production.

What has continued to make Canadian independent production possible in spite of low licence fees is the patchwork of federal and provincial public support programs. Particularly in the case of Telefilm Canada and comparable provincial funding agencies, the status of the support is often ambigious, taking the form of "investments" on which no return — and certainly no profit — is really expected. We return to this issue in Chapter 5.

What about the problems of getting the Canadian product to market? As we mentioned, Canada exerts more control over distribution channels for broadcasting than over movie distribution, but there are still obstacles. In examining CBC television we noted the willingness of the CBC to exhibit Canadian programs in peak viewing hours. In English television the CBC is already moving toward higher levels of Canadian content. However, in private television the situation is different. As we saw in examining private television, English-language broadcasters are extremely reluctant to carry more Canadian programs between 7 and 11 p.m., objecting to any increase in the existing 25-percent requirement. We have already made recommendations for addressing this issue.

The access problem is particularly acute for producers outside Toronto and Montreal. In discussing the CBC we recommended that the Corporation provide increased air time on its regional stations for carriage of regional programming, including a significant amount of performance programming produced in the region. We also strongly support the CBC's initiative to include in its network services additional programs originated outside the network centres. However, air time on the CBC networks will be limited and we believe that access to appropriate air time for producers outside the network centres requires extension. The same concern over access exists in relation to certain categories of programming, including documentaries, performing arts programming and so on. We return to this later in discussing the need for new satellite-to-cable television services.

In our examination of independent production, and of Canadian programming generally, the Committee has been guided by the following objectives:

- to ensure that adequate air time is available at all times of the day, including peak viewing hours, to exhibit a wide variety of different kinds of Canadian programs from a diversity of sources; and
- to ensure that the public support available from the federal government is used as effectively and as efficiently as possible to provide Canadian program producers with a greatly strengthened domestic market.

The Committee believes that the recommendations presented in Chapters 3 and 5 would address the issues of both financing and exhibiting Canadian programs. They would result in exhanced access to air time and a pattern of financing more consistent with the objectives of broadcasting policy.

For independent producers the result would be a stronger and more varied Canadian market. The programming would be produced for showing on CBC, private broadcasting services, the new services we propose in Chapter 5, and on provincial broadcasting services. Inevitably the programs would reflect the different mandates and objectives of the broadcasters for whom they were produced, including both popular, mass appeal Canadian programming and programs directed to more specific audiences. The broad purpose is that the programming supported by public policy should be directed first of all to Canadian audiences. We also believe that with a stronger domestic market, comparable to markets enjoyed by producers in other countries, Canadian programming will also become more successful abroad.

3.9 Community Television

3.9.1 Introduction

Community television, like radio, takes a variety of forms. The Task Force emphasized the community association model developed in Quebec through provincial government support. [Recommendations 19.2-5, *Report*, pp. 502-503.] This model involves the establishment of non-profit community-based organizations which in effect assume responsibility for production. It also presupposes a certain view of the goals of community programming. In Quebec community television is part of a process which is designed not only to reflect community activity or to give a voice to groups which otherwise have no access to television, but also to encourage the social, cultural and economic development of the community.

In Newfoundland we heard from a more loosely knit group based in the Extension Service Department of Memorial University. Its function too has been to facilitate community development. In the past this group has depended on the services of a mobile transmitter. Of necessity, the "programs" it produced were in effect community forums — discussions among community members of subjects important to them, such as the formation of co-operatives, the use of volunteers to provide services, and so on. However the province has only recently been cabled. The promise of a permanent channel presents new possibilities for community programming. As a result, community television in Newfoundland may evolve as it has in Quebec, or it may take yet another shape.

The most common form of community programming is coordinated by cable operators themselves. Although here too there are differences. In Montreal, for example, (in addition to the regular community service) ethnic producers and two cable operators have joined together to provide multicultural programming on a single channel.

In our view a policy for community television must accomodate this variety of models. It should not restrict development to one form or other. In addition, while the benefits of community television are various and significant, we do not think this sector should be targeted as a vehicle for bringing more Canadian content to television. That obligation belongs to the commercial and the public sectors.

Two 1987 surveys give some indication of current viewing habits across Canada. According to an Environics survey, 46 percent of its respondents reported watching the community channel at least "sometimes", another six percent stated that they watched "frequently". A Nielsen Company survey of cable subscribers for one week in March 1987 found that subscribers in 665,000 households (10 percent of all cabled households) watched the channel at least once. Thirty-nine percent of these viewers came from Quebec, 24 percent from Ontario, 18 percent from the Prairie provinces, 11 percent from British Columbia and eight percent from the Atlantic provinces.

A third survey, conducted for ROCCQ, an umbrella group of community television associations in Quebec, reveals that between 56 percent and 90 percent of its potential audience watches community programming at least sometimes. Between 37 percent and 55 percent of that audience watches one to three hours a week. These statistics indicate an important audience for community television, although of course the numbers are small in comparison with those for private and public television.

In February 1988 the Canadian Cable Television Association (CCTA) published the results of a survey conducted in October 1987 (late in 1986 in Quebec) of its members concerning the community channels they provide. Data on programming were obtained in the following way. Programs were classified into categories. Respondents were asked to indicate the number of hours distributed in each category. In all CCTA regions except Quebec the four kinds of program most frequently shown were Public Affairs/News and Information (27.7%), General interest (includes coverage of community events, talk shows, games and entertainment) (20.9%), Sports (14.4%), and Education/How to (9.5%). Following these were multicultural (5.2%) and religious programming (4.5%). In Quebec, where the classification system differed significantly from that used for other regions, the four most popular categories were Public Affairs (17.4%), Documentary (15.8%), General information (13.5%) and Cultural (12.8%). There was no separate category for multicultural programming. The ROCCQ study, also published in February 1988, contains a great deal of viewing data with respect to programming produced by community associations. They are compatible with the CCTA results.

The CCTA survey indicated that original programming acccounted for 40 percent of the schedule on the community channel, with the remainder made up of repeats of locally produced programs (53%), programming received from other cable systems (just under 5%) and repeat programs from other sources. Of the community programs produced locally, two thirds are produced entirely by or with the participation of community volunteers. The survey indicated that cable industry employees involved in community programming spent just over 60 percent of their time encouraging community participation and helping volunteers to produce programs.

The Committee welcomes these surveys as a good beginning to a broader understanding of community television. There is, however, a need for more analytical and qualitative data to be gathered on an annual basis, using consistent definitions and criteria.

3.9.2 Licensing of Community Broadcasters

Most of the Task Force's recommendations with respect to community television had to do with licensing. The Task Force recommended that community television associations be licensed as community broadcasters, and that cable operators be required to provide a community channel. The Task Force further recommended that the relationships between the two groups of licencees should be subject to regulation (Recommendations 19.2-5, *Report*, pp. 502-3). The Task Force agreed that cable operators should in some cases hold the community broadcaster licence, although it would be separate and distinct from their cable licence.

We have already indicated our disagreement with these proposals in our Sixth Report. [Minutes, 36:71 & 72, Recommendation 50, Sixth Report, 36:73.] We do not think the interests of cable operators are inevitably in conflict with those of community program producers. The multicultural channel in Montreal came into existence through the efforts of both groups. Our witnesses in Newfoundland were more than willing to collaborate with cable operators to develop community television. We feel the present licensing system is flexible enough to deal with whatever developments there might be for community television in the foreseeable future, and we do not think it should be changed.

3.9.3 Regulating Support for the Community Channel

Cable system operators are expected to provide support for community programming, but the cable television regulations require only that a community channel be provided; they do not require any specific allocation of funds for the channel. In its report, *Community Channel Survey Results*, the CCTA estimated that the industry spent $47 million on programming in 1987. During our hearings $50 million was mentioned by some operators. The only survey data relevant to the determination of expenditures relates to the number of paid staff. Respondents indicated that they employed a total of 566 persons full-time and 234 part-time for the production of community programs. On average, this represents 5.4 persons per system on either a full or part-time staff basis. However, some CCTA regions differ widely from the average. Respondents from the Mid-West (Prairie)/NWT region had considerably more employees than the average in both categories; Quebec respondents employed significantly fewer full-time people. The survey gives no information about other resources which systems give to community programming.

From this data and from what we have heard we conclude that some operators have indeed been conscious of their responsibilities towards the community channel, and are doing a good job running the channel. However, we know that some could be doing much more. In this regard, the Task Force recommended that cable regulations should require operators to give "material support", to the community channel, and that the CRTC should keep a record of their contributions. [Recommendation 19.3, *Report*, p. 503.]

In fact the Commission does obtain information about expenditures on the community channel. But we do not see how the information can be used to determine whether a cable operator is adequately fulfilling its responsibilities unless all operators adhere to one set of accounting standards. As we have remarked elsewhere, this is not now the case. We propose that a standard be developed, and that the information be reported regularly.

While we agree that cable regulations should accommodate the present expectation as to support, we do not think that there is enough information at present to write a meaningful provision. We understand that the Commission intends to review and examine its policies respecting community television. We feel a review is essential, and encourage the Commission to begin as soon as possible. The issue of defining the cable operator's responsibility should be part of this review.

Recommendation 76

> The CRTC should develop a set of rules for reporting expenditures on the community channel. Cable system operators

should be required to submit this information as part of the annual statistical survey administered by Statistics Canada.

Recommendation 77

In its policy review of community television the CRTC should address the issue of incorporating into regulation the expectation that cable systems operators will give material support to the community channel. The Commission should also determine whether it is practical to make this expectation more precise.

3.9.4 Use of Advertising Revenues

As we remarked in an earlier section, the community channel is now allowed to carry limited advertising; for the most part sponsorship advertising. Revenues are to be allocated to the production of community programming. The CCTA survey makes the following observation on the effect of this provision.

> ... based on the responses received by the CCTA, while sponsorhip revenues assist in improving community programs, sponsorship does not yet contribute significantly to the funding of the community channel. If all 273 Canadian cable television licensees were to solicit the level of sponsorship revenues estimated by CCTA's 69 respondents, collectively the industry would derive about $2,300,00 annually. However, members have not forcefully pursued the solicitation of sponsorship advertising revenues for the community channel. Therefore, CCTA believes that this level of sponsorship revenues will not be attained in the foreseeable future.
>
> ... if all systems were to engage in the same level of sponsorship advertising as the 69 respondents to CCTA's questionnaire have, the sponsorship revenues would represent only 4.9 percent of the total programming budget. [Survey Results, p. 33.]

One factor which may influence the amount of advertising on community television is another CRTC provision which allows cable operators to carry advertising on non-programming channels. The Committee heard from one cable operator in an urban area who stated that he did not want to destroy the integrity of the community channel by carrying advertising; he further remarked that the advertising channel was a more suitable vehicle for advertising. This witness did add that a small system might not have the same option. The Task Force itself implied that advertising limits could be relaxed in less populated areas by suggesting that community associations be licensed like radio stations, using "Type A" and "B" classifications. [Recommendation 19.2, *Report*, p. 503.]

The issue of advertising revenues is linked to the cable operator's responsibility to the community channel. We feel that the CRTC review of the community channel should consider this aspect of the problem. The Committee addressed this issue earlier in its report on broadcasting legislation, that report recommends that the involvement of cable systems in advertising should continue to be limited and specialized in its nature, with the resulting revenues used to support the community channel.

Recommendation 78

> In its policy review of community television the CRTC should address the issue of advertising revenues. In particular, the Commission could consider ways to ensure that advertising revenues serve to increase support for the community channel rather than simply replace revenues from subscribers; the Commission could consider whether smaller systems should have greater access to ad revenues; finally, the Commission could consider the implications of cable operators choosing to promote advertising on the advertising channel rather than sponsorship or contra deals on the community channel.

3.9.5 Government Support for Community Television

There are no established federal government programs of assistance to community television, as there are for radio. The Department of Communications has, however, been involved in certain training programs; for example, those undertaken by the Extension Service of Memorial University in Newfoundland. The Quebec government has supported community television associations and radio stations through its Community Media Assistance Program (Programme d'aide aux medias communautaires du Québec). But the Quebec government announced that it would start to phase out support for television associations in the fiscal year 1986-87.

The ROCCQ, a group which represents community television associations in Quebec, appeared before us to argue strongly for joint federal/provincial funding for its members. The Task Force's proposal with respect to funding, which applied to both radio and television, was that there be a nationwide study of existing financial arrangements and possible options, followed by intergovernmental consultation on appropriate measures to develop the community broadcasting sector. [*Report*, Recommendation 19.8, p. 505.]

We feel that the present funding arrangements are adequate for the development of community television, resting as they do on the premise that the channel is a social dividend which cable systems, as local monopolies, provide to the communities they serve. We see no need for a study at this time.

Recommendation 79

> We see no need for federal/provincial consultations on the development of community television.

3.9.6 Access to Community Television

The Task Force recommended that the licences of community broadcasters should recognize the need of fair access for various ethnic, cultural, interest and opinion groups. [Recommendation 19.6, *Report*, p. 504.] In its policy statement of 1985 regarding multicultural broadcasting (*A Broadcasting Policy Reflecting Canada's Linguistic and Cultural Diversity*) the CRTC remarked that it had received interventions voicing concerns about access to community programming time. In response the Commission stated that it would establish a Consultative Committee to consider the matter. We understand that the Commission is finally in a position to undertake an examination of access, and that the proposed study will cover the range of topics mentioned in the Task Force recommendation. We urge the Commission to complete its work as soon as possible.

Recommendation 80

> The CRTC should proceed as soon as possible with an examination of issues and concerns related to providing equitable community access to community broadcasting services.

3.10 Impact of Technology

In 1990 the Japanese Broadcasting Corporation, NHK, will launch high-definition television — or Hi-Vision, as it is called — in a satellite-to-home service. Japanese industry will start producing HDTV receivers as well as equipment to play HDTV tapes and discs. This will be the result of a 20-year effort to lead the world in advanced television. According to a spokesman for NHK, "HDTV broadcasting and videos will usher in a new visual media culture." [M. Sugimoto, "The NHK Strategy for HDTV Services," *Proceedings*, Third International Colloquium on Advanced Television Systems, Ottawa, October 1987, p. 5.1.1.]

The three colloquia on high definition television in Ottawa, hosted by the Department of Communications and the Canadian Broadcasting Corporation at roughly two-year intervals, have helped authorities in this country keep a close eye on world developments. Experts from Japan, the United States and Europe have set out their often conflicting viewpoints. Last year's gathering marked an important transition in the consideration of HDTV from technological concept to actual industrial innovation. The large broadcasting corporations of the United States and Europe, which had expected to be fully in control of the introduction of HDTV in their markets, finally realized that pressure to move to hi-vision would inevitably result from the introduction of Japanese-produced VCRs and optical disc players. These are expected to be introduced to the North American market in 1991, creating pressure on cable services either to provide hi-vision programs or risk losing market to tape and disc distributors. Cable carriage of hi-vision is expected to bring pressure on over-the-air broadcasters to compete or see their audiences further fragmented.

In the meantime, a number of technological improvements in television broadcasting are already being introduced. Television programming with stereo sound is available from an increasing number of stations, and TV sets with stereo sound capability are finding an increasing market. So-called "smart" TV sets, with digital processing capacity that can restore the signal to the quality of a studio monitor, are also now available. Increasing use is being made of the subcarrier in a TV channel — the vertical blanking interval — to carry closed captioning, which can be seen by using a decoder, for those with hearing difficulties.

In order to obtain views on the introduction of high-definition services, or advanced television (ATV) systems as they are often called, the

Department of Communications (DOC) circulated a discussion paper and questionnnaire in mid-1987, asking for responses.

The Canadian Cable Television Association (CCTA) said for its part that it expected the first major participants in the electronic delivery of ATV to be the premium cable movie services such as First Choice/Super Channel and Home Box Office.

> These players are unlikely to allow the video retail market to gain further competitive advantage over their products. Other early entrants would likely be other cable specialty services, particularly sports networks which could see major competitive advantages in adopting a higher resolution format. (CCTA Response to DOC, *Development of Implementation Strategies for the Introduction of Advanced Television Services in Canada*, December 1, 1987, p. 2.)

Conversion to hi-vision raises greater challenges than the conversion to colour in the sixties and seventies, since colour could be transmitted on the same bandwidth as black and white TV. Hi-vision, which increases the detail of the picture by about four to five times and shows it on a wider screen, needs a good deal more bandwidth, the exact amount depending on the method of bandwidth compression that is adopted. Broadcasters face two challenges: first, finding the additional bandwidth and second, making hi-vision signals receivable by existing sets as well as the new sets designed to receive them.

An alliance of a kind exists between the United States, the world's greatest source of TV programming, and Japan, the world's greatest source of TV equipment, with Canada being associated with the technical standards adopted by the United States. Many of the countries and corporations of western Europe, seeking a separate approach that would protect their electronics and broadcasting industries, are pressing forward with an enhanced definition system based on their own plans for satellite-to-home broadcasting in 1988. It must be remembered that the European PAL (German) and SECAM (French) systems and their variants already have higher definition, with 625 scanning lines, than the North American and Japanese NTSC systems, with 525, though experts point out that the superiority of lines is somewhat offset by a lower frequency of frames per second, based on European 50 hertz (cycles per second) power, compared with a higher rate linked to 60 Hz power in North America and Japan. The Europeans plan to maintain their own distinct transmission standards when they move to true high definition around 1995.

The Japanese 1125-lines system is already in limited use as a world production standard in studios in Japan, North America and Europe. This standard is being used to make not only television programs, which are then converted to NTSC, PAL or SECAM standards for transmission, but also films for movie theatres. The first TV mini-series in this new medium, "Chasing Rainbows", was co-produced by the CBC and an independent producer in Montreal.

As two representatives of the Research Program on Communications Policy of the Massachusetts Institute of Technology pointed out at the Ottawa Colloquium, decisions on studio and transmission standards, and on timing and compatibility, are not only technological, but also political.

> Resolution of any of these issues means that one set of nations and companies will benefit handsomely while another set will not have that opportunity. [L. McKnight and S. Neil, "The HDTV War: The Politics of HDTV Standardization," Colloquium Proceedings, p. 5.6.13.]

While production equipment for hi-vision is already in limited use and being improved, experimental transmission has been undertaken on all three continents. Transmission by satellite, cable and optical fibre was also demonstrated at the Ottawa Colloquium.

The main question, however, is how — even whether — hi-vision will be transmitted over the air by conventional terrestrial broadcasters. In both Canada and the United States, broadcasters are determined that hi-vision must be broadcast over the air and that, moreover, existing sets must be able to receive its programs, just as black and white sets can receive colour signals. Systems are being developed under which the regular picture would be transmitted to both NTSC and hi-vision sets on the broadcaster's present channel, while the additional information needed to provide the full high definition picture would be transmitted as an "augmentation signal" on frequencies in the UHF band to be picked up only by hi-vision sets.

In view of the pending arrival of hi-vision, both the United States and Canada last year established joint committees of broadcasting industry representatives and (in the U.S.) the Federal Communications Commission and (in Canada) the Department of Communications. (While DOC rather than the CRTC is the technological regulator in this country, the FCC handles such matters in the United States.) The U.S. Committee was due to produce a workplan at about the time this report is tabled. In this country, the Canadian Advanced Broadcast Systems Committee (CABSC) is also moving forward from a first phase of gathering the views of participants.

The first concern of the broadcasters is to reserve spectrum in the UHF band against competitive users, such as mobile land radio (including police, ambulance, and other emergency services) who would like to use it. In a joint response to the DOC, the CBC, the Canadian Association of Broadcasters (CAB) and the Agency for Tele-Education in Canada (ATEC — the provincial educational broadcasters), stated:

> There is no doubt that there will be a continuing need for free, off-air terrestrial delivery of both radio and television services in the coming years. Alternate means of delivery, such as coaxial or fibre-optic cable systems or direct-to-home satellite services, will not replace off-air delivery of broadcasting signals in the foreseeable future.
>
> This is due to the fact that these technologies, used either alone or in tandem, cannot meet all the regulatory and statutory delivery requirements of the broadcasting industry now or in the foreseeable future. DTH satellites are not suited to local services as a result of their coverage-beam designs. Cable delivery is neither free nor universally available to the public. Likewise, the conversion of telephone plant to fibre-optic delivery technology is cost prohibitive and will only be developed at the subscriber level in the very long term. (Joint Response of the CBC, CAB, and ATEC to the DOC, "Utilization of the Radio Frequency Spectrum in the Range 30.01-890 MHz," March 15, 1988, Executive Summary, p. i.)

The broadcasters note, as this Committee did in considering alternative means of distribution for CBC television, that 35 percent of Canadian households do not receive cable. They also point out that over-the-air transmission "permits portable and mobile reception of services".

> As technology reduces the size of TV receivers, the public will want to be able to have access to TV signals in temporary locations and in vehicles. Moreover, portability of receivers within the home environment will also become more important. (Broadcasters' Joint Response, p. 8.)

The broadcasters believe they "will be compelled within five years to develop the means to deliver advanced-quality television programming (ATV) services to viewers". While they cannot yet recommend specific means of assuring transmission over the air, they

> believe that all avenues for the eventual delivery of advanced television services should be kept open. The Department should not select any specific delivery vehicle as the sole means of providing advanced television services to the public. (Broadcasters' Joint Response, p. 15.)

The broadcasters contend that for the foreseeable future, no technology other than terrestrial over-the-air VHF or UHF transmission can guarantee delivery of hi-vision services that are universally accessible, provided at no direct cost to the public, and still comply with the coverage requirements of broadcasters and the licence conditions imposed by the CRTC.

The Committee agrees with the broadcasters' view that, if feasible, hi-vision should be available over the air. Spectrum should be reserved for this purpose while research and tests proceed.

Recommendation 81

> In the event that high definition television is introduced, every effort should be made to try to provide delivery over the air in order to integrate this new service fully into the Canadian broadcasting system. Spectrum at present assigned to broadcasting in the VHF and UHF bands should therefore be reserved for that purpose and not shared with other potential users.

In Japan, there is no intention of making hi-vision a free, universal service. It will be offered as a subscription service by direct-to-home, scrambled satellite broadcast, as well as via VCRs and disc players, and eventually by fibre optic networks established by the telephone company. (Japan does not allow separate cable services.) In order to receive HDTV programs on regular NTSC sets, Japanese viewers will need to buy a converter. Thus there are important problems to be solved in adapting the Japanese system to the needs of the United States and Canada.

The scale of conversion to hi-vision is indicated by the fact that there are about 160 million NTSC TV receivers in North America. The current investment in "the NTSC installed base", including over-the-air transmission, cable, satellite and consumer equipment is about U.S. $100 billion, according to a representative of the Philips Laboratories in the U.S. (Arpad G. Toth, "Hierarchical Evolution of High Definition Television, Colloquium Proceedings, p. 5.3.6.)

A representative of Japan's Ministry of Posts and Telecommunications estimated that HDTV home receivers will spread to about 30 percent of Japanese households by the year 2000. (Hajime Okai, "Towards the Realization of HDTV — Situation in Japan," Colloquium Proceedings, p.

5.4.5.) The CBC estimates that in Canada, on the other hand, a projection of seven percent of Canadian households with hi-vision receivers by 2000 "may be optimistic". (CBC Submission to CABSC, "Discussion Paper on the Development of Implementation Strategies for the Introduction of Advanced Television Services in Canada," March 1, 1988, p. 6.)

As has been the case since the introduction of radio broadcasting, developments in Canada will depend very much on what happens in the United States. This country cannot afford to lag behind the U.S. in technology or program production because then it loses audience to American services. Canada has little choice but to be a full player in the hi-vision age; the production of "Chasing Rainbows" indicates that it has started taking up the challenge. The danger is that the impact of technology will be to require huge investments that could drain money from program production, this at a time when we appear to be making some headway in Canadianizing our TV broadcasting.

The broadcasting policies we adopt today will plainly be critical to Canada's ability to retain its cultural sovereignty in the important developmental years of a new phase of television broadcasting. Adherence to firm objectives in the Canadian public interest will be more important than ever. It will be necessary to balance willingness to experiment, innovate and adapt to the new broadcasting environment with the obvious need to avoid high risk commitments of scarce resources. Continuing research and monitoring of developments outside Canada will be essential. It will also be important for the government to continue its policy of listening carefully to the views of the principal participants in the broadcasting industry.

4.0 THE EVOLUTION OF THE DISTRIBUTION STRUCTURE

4.1 Introduction

The Committee's principal recommendations about distribution in the Canadian broadcasting system were presented in its Sixth Report. The Committee expressed its views on the role of cable television and other distribution undertakings, the principles that should govern carriage and access to distribution services, and the basis on which rates for subscription to cable and other distribution services should be set. The Committee shares the concern of the Minister that the significance of the distribution sector of the industry was seriously underestimated in drafting the 1968 *Act* and that it is essential in a new act to provide the CRTC with a clear basis for regulating cable and other distribution services.

In Chapter 1 we summarized our recommendations on the objectives which should provide the basis for cable carriage regulations. In Chapters 2 and 3 we presented recommendations related to cable carriage regulations which flow from the legislative recommendations proposed in our Sixth Report. The Committee's legislative recommendations on distribution appear as Recommendations 48 to 63 in Appendix VI of this Report.

In this chapter we examine further some of the practical broadcasting policy decisions which we believe should flow from our earlier recommendations. First, we look at service to Canadians who live in remote and underserved communities. Related recommendations on service to official-language minorities appear in Chapter 6. In the final two parts of this chapter, we examine technological developments in broadcast distribution and consider the relationship that should exist between broadcasting distribution undertakings, as defined in our Sixth Report, and common carriers in the telecommunications sector.

4.2 Extension of Service

4.2.1 Introduction

The Committee's hearings have taken us across the country, from Vancouver to St. John's. The presentations have convinced us that there are, in fact, two sets of issues in contemporary Canadian broadcasting: the first concerns Canadian content; the second, delivery. As many Canadians as possible should have access to a diverse range of viewing choices at reasonable cost.

The majority of our population lives near the United States border, where microwave delivery of signals from the U.S. and off-air transmission of Canadian signals is cost-effective. In this narrow band, extensive cable distribution is also cost-effective, because of high urbanization. For the many Canadians who live in smaller centers, however, access to a reasonable range of signals at a reasonable price has been the major, overriding issue in broadcasting policy. The need to provide these Canadians with access to a reasonable range of signals has been acknowledged for decades. It was the rationale for the extensive expansion of the CBC and CTV services via networks of conventional transmitters. Later, especially in the past decade, the focus has been on satellite delivery. Testimony before the Committee indicates, however, that problems remain.

Canada was pulled into the satellite age, somewhat belatedly and reluctantly, in 1979. Faced with the fact that underserved households were purchasing dishes to receive American satellite signals, the federal Minister of Communications, David MacDonald, wrote to the CRTC on November 22, 1979:

> On the question of satellite distribution, my attention has been increasingly drawn, as has the Commission's, to the many Canadians living in rural and remote communities who do not have access to the number and variety of broadcast services widely available in more populated areas of the country. I have discussed this matter with my provincial counterparts who have emphasized the need for concrete action to bring diversified television services to people living in isolated areas. I believe that satellite technology in Canada has progressed to the point where it is now technically feasible to provide all Canadians with a variety of broadcast services in the English and French languages.
>
> Moreover, the rapid proliferation of satellite television services in the United States, and their technical availability in Canada, has prompted numerous requests from the public and industry for permission to receive these foreign signals. As you know, the instances of unauthorized reception of U.S. satellite signals in

> Canada are rapidly increasing in number. I am very concerned about this growing problem particularly as it impacts significantly on the development of Canadian satellite television services and the domestic broadcasting system in general.

In an appendix to the letter, the Minister spelled out the government's objectives, which had resulted from consultations with the provinces:

> 1. To extend services to inadequately served areas of the country, in both official languages, in order to upgrade the level of service throughout Canada.
>
> 2. To provide a broad range of satellite television services in a manner that will respond to viewer preferences and demands, and will enhance Canadian broadcasting and program production, their future development, and the cultural sovereignty of the country.
>
> 3. To make more efficient use of satellite technology as one of several alternative transmission and distribution technologies.
>
> 4. To provide an attractive alternative to the reception of foreign satellite signals, and ensure the orderly development of satellite television reception in Canada.
>
> 5. To encourage equalization mechanisms between urban and rural/remote areas.
>
> 6. To develop satellite television services in a manner which takes into account the efforts of individual provincial governments to extend services within their boundaries.

The CRTC responded by setting up a committee which included some of its commissioners and provincial representatives. The Committee was chaired by the late Réal Therrien, and reported in July 1980.

The Therrien Committee felt that the CRTC should immediately call for applications for a Canadian TV satellite service. It recommended that, at least at the outset, this service should carry only Canadian signals; it was the Committee's opinion, from the submissions received, that audiences in remote areas would be largely satisfied with a broad range of Canadian services. American signals could be added at a later date, but only after a policy hearing was held to assess the impact.

To the concerns of the conventional broadcasters that such a service would fragment audiences and diminish advertising revenue, the Commission responded that, in markets where fragmentation was a real possibility, carriage of the satellite channels should be considered on a case-by-case basis, with the burden of proof on the broadcasters to show the potential for damage.

The Therrien Committee hearings saw a number of trial balloons floated by companies interested in providing a satellite service. Various models of service were presented, of varying degrees of complexity: they ranged from a straightforward proposal to provide three English and one French service (the Cancom proposal) to a proposal to install 3,780 two-way earth stations over a two-and-a-half year period, which would be used for conventional television as well as bulletin boards and computer and data services.

4.2.2 The Cancom Licensing Decision

Upon publication of the Therrien Committee's report, the CRTC accepted its recommendation to license a satellite service, and on April 14, 1981, Cancom was licensed to serve remote and underserved areas. Cancom was authorized to carry:

- the CTV signal from British Columbia;
- two independent Canadian stations: CITV (Edmonton) and CHCH (Hamilton);
- the TVA signal from Quebec; and,
- five regional radio signals.

The CRTC highlighted Cancoms' intention to use a C-band satellite, with its wide footprint. Since one of the main reasons for licensing a Canadian satellite service was the spreading use of receivers tuned to American satellites, it was hoped that many of these dishes, which were nearly all C-band, would soon be turned to Cancom.

The CRTC noted Cancom's lack of an Atlantic area TV signal, and expected the company to insert suitable programming into its Eastern service. Cancom was also to cooperate with native broadcasters. Finally, in an effort to address the high capital costs of signal transmission and reception, Cancom indicated its intention to enter into a consortium with dish and equipment manufacturers to bring prices down.

The Commission approved a $4 monthly fee per subscriber for the complete service. The bundled rate would allow no rebates for taking fewer than four stations, except for Quebec communities that wished to take only the French-language service, and for native communities that requested deletion of some services.

The CRTC asked Cancom to follow up and report on: its carriage of Atlantic-originated programming; its carriage of the TVA signal; unbundled fees based on Cancom services taken and services available in the community; affiliation agreements with broadcasters carried; and progress on providing video and audio uplinks for northern native broadcasters and substituting up to ten hours per week into its signals.

Cancom was licensed to carry only Canadian signals, as the Therrien committee had recommended. However, despite the committee's recommendation that a policy hearing should be held before a Canadian satellite service began to carry American signals, Cancom was given permission on March 8, 1983, to carry the three American commercial networks and PBS.

Cancom experienced financial difficulties from the beginning; costs and revenues did not match forecasts. Barely six months after starting commercial operation, Cancom applied to carry the signals from the U.S., hoping they would make its package more attractive in its "core" market of underserved communities. It also requested permission to sell the American signals to other areas which did not already receive satisfactory U.S. signals (the so-called "replacement" and "extra-cable" market). Despite Cancom's original expectation that the company could be viable on the basis of sales in its core market, the company now felt that "access to this (replacement) market is essential in order to make this project financially viable and particularly affordable to the underserved Canadians". [CRTC, *83-126*, p. 754.]

The reach of the American networks was therefore extended over almost all of Canada, without a policy hearing, and in a hasty move to salvage a company which had apparently not been financially viable under the terms of its original license. Cancom had also indicated its intention to reappear before the Commission to ask that its Canadian signal package be "unbundled", so that signals could be sold individually.

In approving carriage of the four American networks, the CRTC noted that Cancom had still not lived up to some of its previous commitments, notably the provision of Atlantic television programming, radio carriage from Moncton and Montreal, and assistance to native programming. The Commission also expressed concern about Cancom's proposed pricing structure, which would have made the American signals cheaper than the Canadian ones; Cancom was asked to submit a reworked pricing formula for signals from the U.S.when it appeared for the hearing on unbundling the Canadian package.

Cancom was then given approval to sell its signals separately, rather than as a balanced package which included Canadian channels. Within the framework of the CRTC's cable regulations, cable system operators were then free to choose which of the Cancom signals they would carry.

In due course, as well, the Commission permitted cable systems in larger urban markets to begin carrying Cancom's U.S. signals, replacing American signals previously imported by microwave (the "replacement market" referred to earlier). The first such sale was in Saskatchewan, where signals from nearby North Dakota (originating in an area with numerous similarities to Saskatchewan, including a shared time zone) were replaced with signals from Detroit — a difference, some argued, of not only time zones also but cultures.

The time zone difference in many of the areas receiving Cancom's American signals is significant in that it may result in American prime time television programming competing directly with local Canadian supper-hour news shows or other local programming. The conventional broadcasters expressed their reservations about allowing Cancom into the replacement market prior to the Saskatchewan decision. Their concerns were that the improved quality of the signals from the U.S. would attract Canadian viewers away from the local Saskatchewan stations, damaging their ability to protect the local exhibition rights they had purchased and their capacity to provide Canadian programs. The cable company applying to carry the Cancom signals argued that this was irrelevant, since Saskatchewan advertisers were still captive of the local stations (given that advertising on the Detroit stations was far too expensive). The CRTC granted permission in October of 1984.

In subsequent decisions, the CRTC approved Cancom carriage of yet another Detroit signal (ABC), despite the fact that Cancom's original requirement to uplink Seattle signals (which would be closer in time zone to Cancom's western viewers) had not been met.

Despite this, and despite the continued lack of Atlantic programming, the CRTC renewed Cancom's license in 1985 for five years. The Commission noted Cancom's successes in lowering the cost of equipment to subscribing companies, its entry into the direct-to-home market for isolated single residences, and its recently-developed ability to cable communities as small as 100 households. The CRTC repeated its support for Cancom's sale of American signals to the extra-cable and replacement markets. The Commission added that it continued to expect Cancom to initiate its Western uplink and to honour its commitment to carry 7-1/2 hours a week of Atlantic programming.

This review of Cancom's history raises concerns about the quality of our regulatory process. Six months after receiving its original licence, Cancom returned to the CRTC to say that its original proposal was not feasible and that American networks were required to generate sufficient revenues. Before making its first operating profit in 1986, the company had an accumulated deficit of $34.2 million from its first five years of operation. Cancom made promises it could not keep and the CRTC accepted them without sufficient scrutiny. Both Cancom and the Commission were wide of the mark in judging what was possible; the result is a Cancom service very different from that originally proposed and licensed.

Elsewhere in this and other reports, we have raised concerns about the quality and depth of the Commission's research. The Cancom episode seems to point straight at the heart of the problem. A better approach to licensing, which this Committee favours, would see the CRTC first deciding what options are feasible for service in a given area; second, deciding which of these options best meets broadcasting policy objectives; and only third, deciding which applicants best meet the criteria thereby set out.

The kind of process followed with Cancom runs the risk of making the hearing process irrelevant, because the only serious hearing is held on the initial proposal. Subsequent decisions which have the effect of substantially altering the company's original operating assumptions are taken without comparable provision for public input.

The Committee recognizes that the CRTC can only function as we propose if it has the resources to do so. We know as well that an element of unpredictability will still exist; but major surprises could be avoided. We have recommended, "In order to be able to carry out independent assessments of the broadcasting industry, the CRTC should reactivate its research department...." [Recommendation 84, Sixth Report, 36:103.]

The Committee believes the next Cancom licence renewal should start with the government's 1979 objectives to extend Canadian broadcasting services in both French and English to Canadians who live in remote and underserved communities. This must include all of the goals the Minister of Communications set out in his 1979 letter to the CRTC.

The hearing should review the extent to which Cancom has been able to achieve these original goals and should identify and address those areas in which it has not. However, this reassessment is not just a matter for the CRTC and Cancom to address; later in this section, as well as in section 6.2 of this report, we propose action by the government itself intended to advance these goals.

Recommendation 82

> In the public hearing on the 1990 renewal of the Cancom licence, the CRTC should return to the goals originally established for providing satellite service to Canadians in remote and underserved communities and examine the extent to which these are being met. These objectives should be identified by the Commission in its call for public comment. In its licence renewal decision additional conditions should be attached to the Cancom licence which are both practical and more consistent with the original goals.

The Task Force on Broadcasting Policy made a number of recommendations concerning Cancom:

> Action should be taken to reduce as much as possible the cost of Cancom's service to the remote and underserved communities that constitute its core markets. [Recommendation 26.1, *Report*, p. 610.]

> In developing further broadcasting services for underserved communities, special attention should be given to measures that will ensure the availability of a reasonable number of attractive broadcasting signals in French. [Recommendation 26.2, *Report*, p. 610.]

> The CRTC should call a new policy hearing to determine the economic consequences of Cancom expanding into extra-cable and replacement markets, and enunciate a definitive policy for service to those markets on the basis of its findings. [Recommendation 26.3, *Report*, p. 611.]

> The federal government should undertake discussions with Cancom and Telesat Canada concerning their respective functions and their regulatory and ownership structure. Discussions should also include Cancom's role in the establishment of a distribution system for native broadcasting recommended in the chapter on Native People's broadcasting. [Recommendation 26.4, *Report*, p. 612.]

We have heard considerable testimony on the distribution and availability of French-language broadcasting services. We shall discuss this issue in detail in Section 6.2 below. Similarly, we shall postpone discussion of satellite delivery of native people's broadcasting to Section 6.1.

Cancom's expansion into extra-cable and replacement markets has given rise to serious concerns, both cultural and economic. The concern continues to be expressed that, in licensing Cancom to serve these additional markets, the CRTC has created American superstations which are well positioned to challenge Canadian networks or independent broadcasters for advertising revenues.

Cancom's response to this and related concerns is that no damage has resulted to broadcasters' revenues from their expansion program. The company points out that the most potentially harmful aspect of the Detroit signals, for the broadcasters, is audience attraction to the American network programming, which would be the same whether originated in North Dakota, Maine, or Detroit. Broadcasters, however, do not agree: they contend that the signals add to the fragmentation of the television audience and lower the price that can be charged for advertising on local stations.

The Canadian Association of Broadcasters commented on the problems faced by individual broadcasters face due to lack of research in discussing audience fragmentation before the CRTC:

> One of the weaknesses we have noted for some time is the lack of basic research coming out of the CRTC. Research is in deplorably short supply. I do not mean that the research being done is not good, but only that there is not much of it. The small amount of research published does not add much to our knowledge. When the CRTC deals with a complex matter like that raised by your colleague, that is, whether the creation of an additional station has a harmful effect on the Canadian

> production being carried out by existing stations, there is no research to turn to. From year to year, the applicants and their opponents do a small amount of research. The CRTC keeps telling us: substantiate your claims. This is one of the weaknesses of the system. Apparently the CRTC is not able to afford to do research providing the groups that appear before the commission with indisputable facts established by research. That is something we have trouble with. [*Minutes*, 69:25-26.]

We have already recommended the general thrust we would like to see in the next Cancom license hearings. We think that hearing is the most appropriate occasion for the CRTC to look at whether Cancom has hurt local broadcaster revenues.

Recommendation 83

> In advance of the next licence renewal hearing for Cancom, the CRTC should prepare and make public its own evidence and independent research on whether Cancom has fragmented audiences, and affected the revenues of licensed Canadian broadcasters.

4.2.3 The Cost of Service

In the Committee's public hearings in all parts of Canada, we heard testimony concerning Cancom's pricing policies. For example, Saskatchewan Communications Minister Gary Lane wrote expressing the views of his government:

> Two years ago Saskatchewan launched a program designed to assist those wishing to establish television redistribution systems. A key element of the program was a change in Federal Government policy, which resulted from discussions I had with then Communications Minister Marcel Masse, about allowing municipal governments to hold television licences. A number of local governments since have applied for licences; purchased hardware; and, have begun providing service.
>
> A major problem slowing further extension of services, however, remains the costs of programming, in particular the fees charged by Cancom to underserved communities. I have appealed repeatedly to the CRTC to have Cancom's rates to its core market made more equitable with respect to the rates charged to its replacement market.... Cancom currently charges $.88 for four signals delivered to urban centres while charging $5.10 for the same signals in underserved communities. The Governments of Ontario, Manitoba and Nova Scotia have presented similar arguments before the CRTC and, most recently, the Caplan-Sauvageau broadcast policy report echoed our views in urging for lower Cancom rates....

> I am aware that Cancom has not recovered entirely from debts it incurred during its early operating years. However, the company now is moving toward recovery and it is finally time to address this issue. Several small systems in my Province either are staggering beneath the financial burden of high operating costs, or are distributing unauthorized, but free, American signals. Other communities either are postponing plans for improving television service, or are ignoring the licensing requirements of the CRTC. [Government of Saskatchewan, *Brief*, March 13, 1987, pp. 1-2.]

Sun Country Cablevision from Salmon Arm, British Columbia, spoke of the financial burden of Cancom charges: "We, like other small cable companies, are being financially shafted by the cost of Cancom signals.... In our specific case, 31 percent of our charged rate to subscribers goes to Cancom. These sorts of rates are making it impossible for some to survive economically...." [*Minutes*, 50:74.] Westman Cable TV from Manitoba also criticized the level of Cancom charges:

> It does have an impact on the provision of services. We were licensed for 10 new towns last year, and we surrendered the licence for three of those towns because of Cancom costs. It was required by CRTC that we carry at least four Cancom signals. Cancom's pricing structure for those towns as opposed to other towns is higher. It is like a captive market. And I posed that when Cancom applied for their change in rates. [*Minutes*, 45:31.]

Cancom responded to these concerns:

> You have heard some complaints about the price discrepancy that exists between the prices we charge to small and large-market cable systems. Let me explain first why that difference exists. It is quite simple. The urban markets have an alternative means of supplying distant signals to cable systems in those markets, namely microwave. For Cancom to capture any business in those markets, it must be priced competitively with the microwave services offered by local common carriers. If Cancom were to raise its prices, it would lose the business, because cable operators would simply switch to the microwave alternative. If that business were lost, the very substantial subsidy I mentioned would also be lost; and it serves to keep the small-community prices much lower than they would be otherwise. [*Minutes*, 59:7.]

Cancom argues that revenues from its sale of American signals to those large communities has permitted lower rates to underserved core markets and that small community rates would be 70 percent higher without these revenues.

We share the views expressed by the Minister of Communications in 1979 that are quoted above; Canadians living in remote areas should have access to a reasonable variety of television signals. Access has elements of both physical availability and reasonable cost, and the Minister's fifth objective of encouraging equalization mechanisms remains as pressing today as it was in 1979. The difference between Cancom's fees for American signals in remote areas and in the urban replacement market is a major irritant. However, the hard fact is that to compete with microwave carriers, Cancom has to charge competitive prices.

Canadian public policy has traditionally encouraged the cross-subsidy of distant customers by the general customer base in both postal and telecommunications services. This cross-subsidization has been based on the recognition that delivery systems for cultural and communications products (as, indeed, for many other products) are in some parts of the country simply uneconomic on a straight user-pay basis. This recognition has led to the maintenance of relatively uniform local telephone rates, despite the differences in the size of systems or the remoteness of the location which might otherwise lead to economies or diseconomies of scale. It has also led to the provision of some $220 million a year in subsidies for the mailing of publications, and in fact to the maintenance of the basic letter rate regardless of location of mailing or distance travelled within Canada.

Most pertinent to the subject at hand, the cross-subsidy principle has led to the public ownership and operation of an immense network of television and radio transmitters for the six CBC-Radio Canada networks. They are explicit recognition of the fact that, while market economics could never provide stereo radio to remote Newfoundland communities, or French-language television to the West, a full capacity to communicate with each other is essential to our continued development as a nation. The existence of these networks also acknowledges that we do not wish to create an information-rich and an information-poor segregation of our society; rather, we want *all* Canadians to be informed and entertained, and to share each other's experiences. Finally, we are rich enough as a country to devote a small portion of our resources to this shared capacity to communicate.

The satellite network is, first and foremost, an extension of our capacity to communicate which it would be inconsistent for Canada to leave entirely to the forces of the market. The selective provision of financial assistance in the delivery of signals via satellite would be consistent with the tradition of encouraging Canadians to see themselves through their own eyes, whether they live in the heavily-populated centres or in the most remote corners of our land. Wherever they are, they are part of our nation; and what better way than our own dramas and comedies and news and information to bring us all together in shared experience. Canadians have supported the extension of other communications services to remote areas; we believe that to the extent that it is necessary to provide a reasonable variety of Canadian broadcasting services and Canadian programming at a reasonable price, financial assistance should be undertaken.

Recommendation 84

> The Committee endorses the Task Force recommendation that action should be taken to reduce the cost of Cancom's service to the remote and underserved communities that constitute its core market.

The Committee's concern, however, is specifically to address the issue of making Canadian signals and Canadian programs available at a reasonable cost in every part of Canada. Our concern is certainly not to subsidize the delivery of the American signals Cancom provides.

At present a number of provincial governments have become involved in providing support to build cable systems in small communities where the per-capita cost would otherwise be very high. However, people in all small communities receiving Cancom's Canadian signals will continue to be concerned that the monthly amounts they have to pay appear unreasonably high. Since Cancom carries a heavy accumulated debt the potential for significant internal cross-subsidy is limited, at least in the medium term. Given that this is the case, the Committee belives that public financial assistance should be provided which would reduce to a reasonable level the cost of Canadian signals delivered to subscribers in remote and underserved communities. In relation to the provision of French-language services this proposal is also addressed in section 6.2 of this Report.

Recommendation 85

> Direct financial assitance should be provided to reduce the costs of receiving Canadian broadcasting signals in remote and underserved communities.

When the Federal Telecommunications Programming Services Tax was introduced in 1983 it incorporated a provision intented to exempt small cable systems. The statement made at that time noted that:

> Persons who are providing services to fewer than 200 subscribers for personal viewing during the course of a month will generally not be required to apply for a license, and the tax will not apply to any amounts charged by them for programming services. [Department of Finance, Canada, *Budget Papers*, Ottawa, April 19, 1983, pp. 35-36.]

Subscriber costs in small systems are inevitably higher than in large ones because fixed costs are heavy. According to Cancom, in 1986 the average basic cable rate was $10.67 a month but was $18 to $25 in underserved areas. The intent of the tax proposal to exempt small systems was sound. However, at present the exemption is granted only to to persons who operate the systems rather than the systems themselves. As a result when a single firm cables a number of small communities with separate stand-alone systems, if the total number of households in all the systems combined is over 200, then tax is payable by each separate system, regardless of its individual size. This is a problem which could easily be remedied. The Committee believes that the intent of the exemptions was to apply to all small systems and that the necessary change should be made.

Recommendation 86

> The Ministers of Communication and Finance should consult to find a suitable tax amendment to exempt all small cable systems from the Federal Telecommunication Programming Services Tax.

The tax situation facing Canadian viewers who do not have access to a cable system differs from that of cable subscribers. Increasingly, those without access to cable are purchasing their own satellite receiving equipment. If they subscribe to the Cancom direct-to-home service, thereby paying for the signals they receive instead of or in addition to watching American satellite signals free of charge, they must pay the Federal Telecommunication Programming Services Tax. The Committee believes it would be consistent with the exemption now provided to small cable systems to exempt individual, direct-to-home subscribers to Canadian satellite services as well.

Recommendation 87

> Subscribers to Canadian direct-to-home satellite services should be exempt from the Federal Telecommunication Programming Services Tax, just as subscribers to small cable systems are exempt.

4.2.4 Role of Telesat in Broadcast Distribution

Telesat is a mixed corporation, owned half by the government and half by the telephone companies. It was established by Act of Parliament in 1969 with the joint objectives of establishing a satellite system on a commercial basis, and using, where possible, Canadian skills and materials. It can carry both telecommunications and broadcast signals. Currently, it is subject to rate regulation under the *Railway Act*, as are telecommunications companies. The Task Force made a number of recommendations concerning Telesat and its importance in the delivery of broadcast signals:

> New legislation should provide a special regime of broadcast-carriage rate-setting for Telesat Canada. It should protect the consumer interest in fair and reasonable rates. It should permit economic pricing for the marketing of information and entertainment services. If necessary, broadcast services of public interest using Telesat Canada should be federally subsidized to provide for the viability of satellite communications in Canada. [Recommendation 25.1, *Report*, p. 598.]

> In connection with Arctic sovereignty, telecommunications policy, broadcasting policy, the interests of user groups and the general public interest, the government should review the ownership of Telesat Canada with a view to recognizing more adequately the corporation's special role in providing carriage for broadcasting and telecommunications services to underserved areas. The broadcasting industry should be consulted to determine its agreed common interests in satellite communication policy. [Recommendation 25.2, *Report*, p. 599.]

Telesat sees its future role differently. In a brief to the Committee, the company pointed out that, as well as having a strong broadcast services component, it has voice, data, and image telecommunications business which represents 48 percent of its total revenue. Furthermore, it is in the process of developing a mobile satellite service which, in the course of the next seven years, is expected to equal 50 percent of its current revenues.

With respect to the Task Force's recommendations, Telesat disagreed that new legislation should be introduced to provide a special regime of broadcast-carriage rates, feeling that this placed undue emphasis on the company's business which is not its primary area of expected growth. Other witnesses supported the Task Force proposals.

On this issue, the Committee did not have the opportunity to hear many witnesses and interests on the telecommunications side of Telesat's operation; this would have been a major undertaking. Although we are sympathetic to the thinking of the Task Force on this topic, we feel further study is needed and that part of a process of examining these issues might usefully be a public hearing organized by the CRTC.

Recommendation 88

The CRTC should conduct wide-ranging public hearings into the Task Force recommendations 25.1, 25.2 and 26.4, and issue a report to the Minister of Communications.

4.3 Evolution of Distribution Technologies

The word "broadcast" — to spread or diffuse — was first adopted to describe radio signals that were made available to everyone with a receiving set within range of a transmitter. At the outset broadcasting was point-to-multipoint, rather than point-to-point, radio communication. Early in its development, broadcasting also came to include network broadcasting, in which programs were sent point-to-point by wire from central studios to local stations which then broadcast them over the air to the public. Networking was needed because radio broadcasting over great distances by short wave was not sufficiently reliable. The network centre therefore distributed program signals by common carrier — telephone or telegraph — to the broadcasting station, and the broadcasting station created a daily schedule of public programming by combining its own programs with the network's. The essential point was that the local station, whether as part of such a network or as an independent station, controlled distribution to the home.

Television, whose signals can travel only the length of the line of sight to the horizon, began in the same way with central networks linked to local stations which broadcast to the public. Again, common carriers provided the link from network studios to local stations — this time by microwave relay in order to carry the greater bandwidth needed to transmit television. For shorter distances, coaxial cable could be economically used to carry the TV signal. Both radio and television stations occasionally used rebroadcast transmitters to extend the area of their coverage.

In television, a new form of network soon appeared; instead of delivering signals by common carrier for local broadcast, local over-the-air broadcast signals were picked up on a community antenna and then transmitted by coaxial cable to homes in nearby areas that could not usually receive the signals off air. As time went on community antenna television (CATV), usually known simply as cable, began using microwave relays provided by the common carriers to bring distant American TV signals to Canadian centres. This was the beginning of distribution systems that bypassed the local broadcasting station.

Bypassing the local station was to be extended by the next new entry in the distribution system: satellite communication. The satellite could provide a direct link between program providers and either the home or cable systems. Satellite communication also served as part of the common-carrier telecommunication system by which programs were distributed. Further, satellite communication was used to gather material for news and information programs.

The early vision of the satellite was as a super transmitter in space that could broadcast radio and televesion stations directly to audiences anywhere on a continent. This has not come to pass. Instead, satellite-to-cable delivery has been used to achieve a kind of mass distribution of single stations (which have become known as super-stations), and specialty services, or pay-TV channels. Direct-to-home (DTH) satellite broadcasting was developed, not deliberately by broadcasting companies, but by enterprising people who built dish antennas to capture satellite traffic for their home screens. The Task Force concluded that while satellite-to-home broadcasting is valuable to serve remote or sparsely populated areas, there are arguments of technology and convenience that make satellite-to-cable networking likely to remain the preferred means of delivery in built-up areas. [*Report*, p. 53ff.]

In radio broadcasting, satellite transmission has become important for providing syndicated or networked programming. Some years in the future direct radio broadcasting by satellite to mobile receivers, with digital transmission, may give radio new range combined with reliability and excellent sound quality.

In the United States, an additional type of distribution was created by using terrestrial microwave transmission for direct television broadcasting. The system, known as a multichannel, multipoint distribution system, or MMDS, provides up to 31 channels of television for a distance of up to 50 kilometres. Receivers must be equipped with special antennas and a converter to bring the signal down from microwave frequencies to ones receivable on the home set. Sometimes known as "wireless cable", MMDS offers the viewer a less expensive installation than that required for satellite reception. Often in the United States, MMDS is used for instructional and educational television by day, and for entertainment programming in the evening.

The CRTC did not make regulatory provision for MMDS in Canada until the fall of 1987. At that time it announced policy not only for MMDS, but also for direct-to-home satellite broadcasting systems and subscription television systems. For all three types of distribution, the CRTC adopted the Committee's earlier terminology classifying these licensees as broadcasting distributing undertakings. In its Sixth Report, the Committee recommended that the *Broadcasting Act* provide for cable and other distributors whose service consists of distributing programming services originated by radio and television stations or networks to be licensed as distribution undertakings. [Sixth Report, pp. 25,26.]

Canada is at present in protracted negotiations with the United States concerning regulation of MMDS along the border. If MMDS systems in the two countries are not to interfere with one another, transmitters must either be located a sufficient distance from the border or be set back-to-back with directional beams restricted to their respective countries. A number of other technological precautions may also be necessary. The difficulty is particularly acute in the Windsor-Detroit area, where an American MMDS licensee wishes to place its transmitter close to the riverfront across from Windsor.

After hearing witnesses in the Windsor area and examining this question, the Committee was extremely concerned by the approach that Canada appeared to be taking in negotiations with the United States. A tentative draft agreement appeared to endorse "first come, first served', which would seem to be an invitation to American operators to repeat in MMDS the saturation of Canadian border areas they achieved in the early days of radio broadcasting during the 1920s. It tooks years of negotiating for Canada to remedy the effects of those years and obtain its fair share of radio frequencies.

If all 31 Detroit MMDS channels are distributed through an omnidirectional transmitter near the riverfront, the U.S. will have preempted the possibility of Canadian MMDS service to Windsor and neighbouring areas of Essex and Kent counties. The supposed technical measures proposed by the agreement to allow a Canadian operator to use the channels as well were not convincing. It appears that the Amercian operator is intent upon serving both sides of the river, thereby excluding a possible Canadian service. Otherwise arrangements could be made for either a directional beam or a transmitter set back from the border.

This comes at a time when Canada has enjoyed considerable success in encouraging viewing of Canadian programming in the Windsor area through the efforts of a cable licensee, CUC Limited, that brings Canadian signals by microwave from Toronto and Hamilton. Further the Department of Communications has recently given its approval for CUC to provide an eight channel MMDS service in the Windsor area.

In recent years, Canada and the United States have agreed on a division of spectrum capacity between the two countries. We believe that this approach should be taken with MMDS if it proves impossible to restrict signals to the respective countries' air space.

Recommendation 89

> Canada should reject "first come, first served' as a basis for licensing multichannel, multipoint distribution services (MMDS) that overlap the Canada-United States border. The two countries should agree on arrangements that either restrict the range of MMDS signals to their respective countries, or follow the historic principle of awarding a fair share of frequencies to each country.

Another form of distribution is master antenna television (MATV), and satellite master antenna television (SMATV), often provided in apartment blocks or hotels. These are private, self-contained, mini-cable systems where the owner of the building erects either a tower or dish antenna and provides a selection of channels to the building's occupants.

One of the features of modern distribution systems is the subcarrier capacity that has been developed within other signals. For example, an FM radio signal provides a Subsidiary Communications Multiplex Operation (SCMO) channel, which may be used to deliver background music to stores, minority-language programming, readings for the blind, teletext, and other services. Television has its vertical blanking interval (VBI), which is used to transmit such services as closed captions for the hearing impaired, which are shown on the screen by use of a decoder. Stereophonic TV carries a secondary audio programming (SAP) channel and a multiplex channel.

In any discussion of current distribution techniques, one of the major uncertainties is the role that optical fibre will play in the system. In fibre optics technology, television or other signals are transmitted on a beam of light in a cable containing glass or other transparent fibres the breadth of a human hair. The high frequencies of transmission — in the billions of cycles per second, or gigahertz — give optical fibre astonishing carrying capacity in relation to its size and weight, an important factor at a time when digital transmission and higher-resolution pictures are making heavier demands on bandwidth. Optical fibre, which is being installed in telephone trunk lines and transoceanic cables, is expected eventually to replace the twisted pair of copper wires that carry telephone service into the home. This would bring a bandwidth with the capability of carrying video as well as voice and data into the home. Similarly, over time, some cable companies which are starting to use fibre in their trunks will bring fibre into the home.

In Montreal, the Committee examined the new interactive systems developed by Canada's second largest cable operator, Le Groupe Vidéotron Lte., which is developing business and entertainment applications. Videotron has been offering a wide range of cable-originated information and entertainment services.

New and expanding technological options cause competition and often result in conflict between countries, institutions and companies. In the evolution of distribution technologies, the various distributors often compete with one another even though they depend on each other. Over-the-air broadcasters are concerned about losing their direct broadcast link to listeners and viewers to cable and other distributors, eventually becoming mere program providers plugged into an integrated system. Cable, as an industry is dedicated to controlling the means of delivery and not being supplanted by the much larger telephone companies. Satellite distributors are dedicated to retaining and expanding business as a common carrier; and are probably content to bypass cable systems and carry programming direct to the home. In the U.S., the MMDS distributors see themselves competing with cable to provide multichannel service. In Canada, the CRTC policy limits any prospective MMDS operation to providing discretionary services in any area where it would be in competition with a cable system; indeed, the policy seems designed to have MMDS systems run by cable operators where they would be useful to extend service to uncabled areas.

Canada has as yet not found a satisfactory way of reconcilling the disparate interests. To some extent the problem has been relegated to the CRTC; to some extent the Department of Communications tries to deal with it; but efforts to formulate policy are often limited by CRTC powers. In Japan, the co-ordination of the efforts by government, the state broadcasting corporation, key industries and the authorities responsible for telecommunications lies behind the steady advance of high definition television. In most European countries, government ownership of broadcasting and telecommunications, together with policies to support home industry and respond to the Japanese challenge, have led to similar co-ordination. In the U.S. the dynamics of the market, underpinned by anti-trust legislation, and accommodated by responsive regulation or deregulation, have led to substantial experiment and market testing, which tends to sort out public preferences in distribution technologies. Canada, in contrast, has not managed to co-ordinate all the varied interests, on the Japanese or European models, and could not subject broadcasting to the kind of American market system without abandoning Canadian cultural imperatives, as explained elsewhere in this Report.

The Minister of Communications has impressed upon this Committee on several occasions her view of the importance of "strong and dynamic distribution systems" in Canadian broadcasting. [Minutes, 56:14.] She has indicated some disappointment that the Task Force Report did not go further in drawing policy implications from technological evolution and has asked for our special attention to technological questions.

Since 1983, government policy in Canada has recognized cable as being the preferred distribution method for Canadian television. It was an appropriate policy owing to the high degree of cable penetration in this country. Because cable had developed as the main provider of American programming, Canadian control could be asserted if we were not to abandon to U.S. programmers what was becoming the primary Canadian distribution system for TV. Cable is now available to approximately 85 percent of households and is subscribed to by about 66 percent. It has the means to increase the number of channels almost indefinitely, especially if optical fibre is eventually incorporated and a system for interactive services is used. Cable provides a source for tax revenue which supports the production of Canadian programming through Telefilm Canada's Broadcast Fund. Cable also offers a convenient way to charge extra for discretionary services, thus enabling a distinction between broadcasting as a mass medium, and narrowcasting as a more selective medium.

Cable as a mass medium is represented by what E.S. (Ted) Rogers, president and chief executive officer of Rogers Communications Inc., describes as "big basic", a service of approximately 35 to 40 channels. (Minutes, 65:193.) "Big basic" includes not only a wide range of local, regional, and distant over-the-air signals, but also a package of specialty services such as the CRTC has approved for inclusion in basic service later this year. "Big basic" is not "free", as over-the-air broadcasting is, but it is available for a low monthly rate. Obviously, this service is more than the basic band of channels from 2 to 13, and thus the subscriber requires a converter, which has become an almost standard part of newer TV sets, to receive the full service. Beyond this form of basic comes cable as a selective medium — the specialty and movie channels for which subscribers must pay extra.

Cable can be supplemented by MMDS, satellite service, or low power transmitters where cable distribution is impractical. At the same time, as we urged in discussing high definition TV, public policy must also protect the possibility of distributing advanced television systems over the air, especially since TV receivers may become much more portable in the years ahead.

Finally, although cable carries radio services, they are only received by a small number of subscribers. It appears that over-the-air distribution will remain by far the predominant delivery technology for radio.

The continuing dispute over distribution between the cable companies and the telephone companies (telcos) is more institutional than technological. This is one area in which a co-ordinated policy sponsored by the government would be most helpful. Understandably, cable operators who are making major investments to increase the number of channels and improve the quality of signals they provide, want assurance that they are not to be put at the mercy of the telephone companies. On the other hand, Canada has one of the world's leading telephone distribution, manufacturing and research conglomerates, in the form of Bell Canada, Northern Telecom, and Bell Northern Research; a number of other telecommunications and manufacturing companies are active in the development of fibre optics technology. They cannot be dismissed. It is a nettlesome problem for the government to address, as one recent study suggested:

> It is a difficult challenge to rationalize the telephone company and cable perspectives. On one hand, the telephone companies envisage fibre-delivery to the home commencing within the next 10 years to meet their own needs, and are anxious to realize the full potential of fibre facilities through the inclusion of the delivery of video services. On the other hand, cable operators believe coaxial systems will meet future service requirements; they do not see a need for technology change, do not foresee a requirement for complete system replacement, and are reluctant to give up system ownership and control. [Nordicity Group Limited, *Use of Common Fibre Optics Distribution Facilities for Telecommunications and Broadcasting*, Report to the Department of Communications, June 16, 1986.]

When witnesses from the Canadian Cable Television Association appeared before the Committee, they adamently maintained that if optical fibre were desirable to carry television into the home, the cable systems and not the telcos should provide it. Roger Poirier, Vice-president Technology and Planning of the CCTA, argued against the view that cable and telephone systems were converging and told us:

> Just because cable or telecommunications is moving toward fibre optic networks does not mean a great deal in terms of convergence. We use that technology very differently. We both use microwave; we both use satellites today. In future we will both use fibre. We should not attribute so much importance to our common use of fibre that we say the two industries have converged. We are very specialized. We are optimized to carry and deliver large numbers of broadband signals. The telephone companies are optimized and structured as a switched network, and they will use fibre in that optimum format. [Minutes, 69:81.]

The CCTA maintains that any kind of switched network used by cable in years to come will be different from that used by the telcos. At the same time, however, a good deal of the research on fibre optics and television indicates telco participation in development in Japan, Europe and the United States. Canada's field trial of a fibre optics integrated telephone and video delivery system at Elie, Manitoba, was a joint project of Manitoba Telephone System and the Department of Communications. From the regulatory point of view, federal jurisdiction appears clear in either case. Cable, as a broadcasting receiving undertaking, has been placed in federal jurisdiction by court decision. A number of telcos are regulated at the provincial level, but a decision of the Federal Court of Appeal [*Alberta Government Telephones* v. *Canadian Radio-Television and Telecommunications Commission*, [1986] 2 F.C. 179, 24 D.L.R. (4th) 608 (F.C.A.)] indicates that carriage by them of broadcast programming would be in federal jurisdiction. The Court held that

> ...Alberta Government Telephones, in virtue of its connecting arrangements with the other members of Telecom Canada and the nature of its network traffic, was a "connecting undertaking" and thus within federal jurisdiction, and that its status as a provincial Crown corporation did not prevent it from being subject to CRTC regulation under current law. [Nordicity, Fibre Optics study, pp. 62-63.]

The Committee agrees with the Minister's position that common carriers should not be in the broadcasting business, or in the hybrid business of operating broadcast distributing systems. That does not mean, however, that telcos should not lease capacity on optical fibre facilities to cable companies. As the Task Force was told by Bell Canada, CRTC regulations at present would not allow telcos and cable systems to cooperate in this way.

> In other countries, such as the United States and Britain, telephone companies can lease bandwidth to cable companies. In Canada the telephone companies must lease the whole cable to cable companies and cannot lease any of it back. Under another regulation, the cable companies must own amplifiers and dropwires on the cable system, even when they lease the cable itself from a telco. These rules stand in the way of joint telephone-cable ventures to combine video and other telecommunication carriage on the same optical fibre into the home. [*Report*, p. 71.]

The Committee believes that it would not be appropriate for a body with our mandate and technological competence to offer a recommendation on an issue of such significance. While the Minister was anxious for us to consider future technological issues, the government must realize that these will have to be taken up separately, with adequate public hearings and consultations before final decisions are reached. We do, however, urge all interested groups in broadcasting and telecommunications in Canada to undertake a greater, more concerted effort to reach a satisfactory consensus.

Resources, time, and energy are needed to improve our broadcasting and telecommunication systems. They should not be wasted in squabbles over other issues.

While the Committee is not prepared to recommend detailed technological choices, we will suggest processes that might lead to better ones.

Technological evolution in distribution illustrates the importance and necessity of incorporating into the broadcasting act a power of cabinet direction to the CRTC on broad policy matters. There will inevitably be major technological changes in the next two decades that cannot now be envisioned; Canada should not have to amend its broadcasting act for every technological advance.

Such matters should properly be an issue for national broadcasting policy, in which the CRTC should act as an advisory body rather than to settle questions on its own as a matter of Commission regulatory policy. With a power of direction subject to scrutiny by parliamentary committee, as recommended by this Committee and accepted by the government, the government could exercise its responsibility on this and other broadcasting matters where it has been difficult to arrive at coherent national policy.

Recommendation 90

> The Government should use its offices, including the power of direction to the CRTC proposed for inclusion in the new Broadcasting Act, to foster co-ordinated and complementary efforts among groups interested in developing distribution technology to further the objectives of the Canadian broadcasting system. Consultation and public participation, including CRTC hearings and review by the appropriate Parliamentary committee, should be part of the process.

4.4 *Common Carriers and Broadcasting Distribution Undertakings*

Many common carriers, such as Bell Canada, Canadian National-Canadian Pacific Telecommunications (CNCP), and Telesat Canada supply services to broadcasters and cable companies. They do so on the same basis that they supply services to others, with no interference in the content of what is carried — that is, programming. They simply move broadcasting signals from one point to another without becoming responsible for supplying services to the public.

The Committee takes the position that common carriers should remain in this role and should not be licensed as broadcasting transmitting undertakings or in the proposed classification of broadcasting distribution undertakings. If they were allowed to play a double role, it would provide the potential for the role of the two types of undertaking to be undermined through self-dealing.

Recommendation 91

> Common carriers should not be allowed to hold broadcasting transmitting or broadcasting distributing licences, either directly or through affiliates.

We wish also to signal our broader concern with the problem of vertical integration and the resulting potential for conflicts of interest and non-arm's-length dealing in broadcasting. For the same reason, while we have recommended the licensing of distinct broadcasting distributing undertakings with a hybrid role, we have taken precautions against a misuse of their distribution control. Thus Recommendation 51 in our Sixth Report states that:

> The act should provide that no distribution undertaking may have an ownership interest in, or be in common ownership with, a pay television, specialty or any other network programming service distributed on such undertaking on the basis of a contractual relationship between the licensed network and the distribution undertaking, or where the consent of the network or the distribution undertaking is required for carriage.

5.0 REVIEW OF PUBLIC SECTOR INVOLVEMENT

5.1 CBC Accountability and Efficiency

5.1.1 CBC Accountability to Parliament

In this section we propose an improved relationship between the Canadian Broadcasting Corporation and Parliament. We wish to reinforce accountability, giving it more substance. Our purpose is to strengthen not diminish public broadcasting.

There is a compelling need for public broadcasting in Canada. The CBC ensures that as many Canadians as possible receive broadcasting services, even in areas where it may not be economically feasible for private broadcasters to operate. CBC radio and, increasingly, CBC television are indispensable in providing a wide range of distinctively Canadian programming. In responding to its mandate, the CBC has established a complex structure that includes the operation of six networks, as well as the CBC's radio and television stations.

Public ownership requires accountability to Parliament and the public. The CBC will always be subject to intense public scrutiny. Almost everyone has views on its programming, personalities and content; even the strongest supporters of public broadcasting are not reluctant to voice their concerns and criticisms.

The CBC is not only owned by the public, it also receives substantial public funding: $907 million in fiscal 1988-89. Parliament, the government and the people of Canada have a clear interest in ensuring that CBC spending is efficient and effective. Since Parliament votes the appropriations for the CBC, it has a particular obligation to ensure that the funds are spent according to the Corporation's mandate. CBC operations are extensive and complex, and so, too, is the corresponding obligation to be publicly responsible.

The CBC has often been viewed as a bureaucratic and top-heavy institution. A certain amount of bureaucracy is inevitable because of its many broadcasting operations, and the management of complex creative and technological resources. However, as a result of budgetary reductions in recent years there has been considerable streamlining of the CBC's operations. Budget reductions, however, have also affected programming.

The key to Parliamentary and public approval is the *accountability* of the CBC for careful planning and efficient management. This must be distinguished from the CBC's autonomy or independence in its programming decisions. The CBC is a public broadcaster, not a state broadcaster, as we emphasized in our Fourth Report. [Fourth Report, 21:34.] No one wants the CBC to be operated by the government, or to become an apologist or propagandist for the government. The CBC must remain free of political interference.

The Committee believes that the present relationship of the CBC to Parliament is not strong enough or well enough defined. Shortcomings in accountability contribute to misunderstandings, often creating a needlessly adversarial relationship and exaggerated views of CBC's weaknesses. We believe that improved accountability will lead to a more constructive relationship that will not diminish, but rather increase, the CBC's programming autonomy and create greater confidence in the Corporation.

THE CBC'S MULTIPLE ACCOUNTABILITY

Besides being accountable to Parliament and the government, the CBC is accountable to advertisers in commercial operations, to the CRTC, to affiliates, and to audiences. The Task Force referred to the CBC's "Byzantine network of accountability relationships", and stated: "It is our firm conviction that the CBC is now answerable to so many bodies — Parliament and its committees, the Department of Communications, Treasury Board, the CRTC, the Auditor General — that it is encouraged to behave as if it is answerable to none". [*Report*, p. 320.] The Task Force went on to comment:

> Paradoxically, no other Crown corporation carries such a heavy burden of supervision. This is demoralizing for the CBC and costly for the taxpayer. Far from ensuring effective controls on spending and meaningful measures of performance, the present system is a source of frustration for all parties — programmers, politicians and bureaucrats alike. Even if the CBC were not so over-supervised it would still pose special problems of accountability as a public agency engaged in creative and often controversial activities. [*Report*, p. 320.]

The CBC is regulated by the CRTC in its broadcasting operations. Some argue that one arm of government overseeing another is duplicative and unnecessary. On balance, however, the Committee believes CRTC supervision of the whole broadcasting system is desirable. Accountability to the CRTC, however, is not a substitute for accountability to Parliament. The CRTC derives its authority and mandate from the *Broadcasting Act*; the *Act*, the CRTC and the CBC are all creations of Parliament.

The CBC is also accountable to its Board of Directors, appointed by the government. In our Fourth Report, we suggested the authority of the board be strengthened by separating the positions of the Chairman of the Board and President and by legislating the role of the audit committee.

As a Crown corporation the CBC must negotiate with Treasury Board and the Department of Communications for funding and must comply with the government's financial regulations. Its accounts and operations are audited annually by the Auditor General, who reports to Parliament. At the same time, it is recognized that the CBC is fundamentally different from other Crown corporations and agencies; for instance the CBC, along with other Crown corporations in the cultural sector, was exempted from the new provisions of the *Financial Administration Act*, embodied in Bill C-24, which were designed to strengthen ministerial control as part of an attempt to improve their accountability.

The CBC is directly responsible to Parliament. Its annual report is tabled in Parliament, and estimates of its capital and operating expenditures must be approved by Parliament each year. As the Task Force noted, however, "Parliament cannot... exercise continuing or detailed control of expenditures. This is partly because the CBC is protected from public scrutiny of certain expenditures, and partly because it is too large and complex for any but full-time specialists." [*Report*, p. 322.]

In discussing the CBC's relationship with Parliament, the Task Force wrote that "It can ... be argued that the CBC's accountability to Parliament overrides all other considerations, both because the CBC is a legal creature of Parliament and because Parliament is by far the CBC's major source of revenue". [*Report*, p. 320.] In further defining that relationship, the Task Force noted that the Corporation must be responsible to Parliament for its use of public funds, and went on to state that members of Parliament share with ministers of the Crown an obligation "to see that the CBC spends its appropriation in conformity with the statutory mandate and any other policies in force". [*Report*, p. 321.] The Committee's concern here is to present proposals which will better define the process through which CBC gives Parliament an accounting for its performance in responding effectively and efficiently to its mandate.

NEED FOR LONG-TERM PLANNING

The Task Force recommended long-term planning for the CBC on the basis of stable, multi-year financing to remove the present element of uncertainty. Orderly planning is important in television where bringing a production to air often takes several years.

The concept of long-term funding is distinct from level of funding; the purpose would be to avoid fluctuations — the present unpredictability, the unexpected shortfalls or increases — thereby making the Corporation easier to manage. Directing more attention to the Corporation's long-term priorities will also, however, stimulate discussion of the appropriate level of funding.

Long-term funding for the CBC has been proposed in the past, but rejected, or at least not implemented, for a variety of reasons. Indeed, the 1968 *Broadcasting Act* originally contained a provision for long-term operational funding, but this engendered so much opposition on the ground that it derogated from Parliament's control of the government's purse strings that it was withdrawn on the last day of debate to get the bill passed. The government's intention, according to the then Secretary of State, was to bring forward a special CBC financing bill, but this never occurred.

At present, the CBC relies on annual appropriations from Parliament for 76 percent of its budget. Additional funds come principally from sales of commercial time on television.

If the CRTC does not have a realistic estimate of future CBC funding, it cannot determine what conditions of licence are suitable and achievable. The Commission has no real control over the CBC's financial situation, although its decisions can affect its allocation of funds. As the Task Force noted, multi-year funding, ideally corresponding with CRTC licence renewal periods, would make licence renewal more meaningful. It would increase public accountability because the public and interested parties could suggest financially feasible alternative policies for the CBC.

The frustrations caused by the lack of assured multi-year funding can be seen in recent CRTC decisions. In the television networks' licence renewal decision, the Commission stated:

> The Commission had encouraged the Corporation to facilitate full public discussion of the CBC's future plans by setting out its long-term objectives and its priorities for the coming renewal period by developing scenarios based on various funding assumptions. However, the CBC did not provide a strategic plan outlining which programming services and facilities it intended to maintain, expand or curtail. Indeed, whenever goals or plans were referred to, not only were they not prioritized — except for a few — because of funding uncertainties, they were only discussed on a purely hypothetical basis.
>
> While CBC officials were prepared to argue that the Corporation's anticipated future funding would not be sufficient to meet its statutory obligations, they were unwilling to state publicly any solutions to the funding situation in which the CBC finds itself or to identify the priorities the CBC would respect in operating its English and French television networks, in the absence of a legislated change in the Corporation's mandate ...
>
> The CBC has an obligation, as the national broadcasting service, to inform the Canadian public through the public forum envisaged by the *Broadcasting Act*, of its priorities as to the future implementation of its mandate, based on the funds made available to it. In this the CBC has failed. The public hearing should have served as a forum in which the Canadian people could compare their aspirations for the national broadcasting service with the long-term objectives and priorities established by the Corporation itself. [CRTC Decision, 87-140, p. 19.]

Similar complaints were voiced by the CRTC in its recent decision renewing the CBC radio network licences. [Decision CRTC 88-181.] In this decision, the CRTC quoted from its earlier decision on the television network licences renewal:

> ... unless and until the mandate of the national broadcasting service is changed, the government should assure itself that the CBC has sufficient funds to enable the Corporation to fulfill the objectives set out for it in the Broadcasting Act. Given the exigencies of the Act, the significance of the CBC within the Canadian broadcasting system, and the high expectations the Canadian public has for the CBC, the Commission considers this a matter of urgent priority. [CRTC Decision 87-140, p. 113.]

The CRTC has dealt with the problem of financial uncertainty in CBC television by minimizing conditions of licence and regulatory requirements and, in the case of the radio networks, by renewing licences for only three years instead of five. This undermines the value of the licence renewal proceedings. That is why this Committee has supported the Task Force recommendation that government should make a formal statement of its intention on CBC long-term funding. every five years. As the Committee stated in its Sixth Report:

> The case is clear for the government to provide the CBC with better indications of future funding. Ideally, this would be done by including a statutory basis for CBC

> funding in the Act, as has been recommended in earlier reports. Nevertheless, the Committee accepts the reality that this option is unlikely and that the approach proposed by the Task Force is more realistic. The Committee fully realizes that a statement by the government as to the amount of funding it proposes to provide the CBC cannot be binding under the parliamentary system. However, this does not negate the value of such a statement, and it would substantially reduce uncertainty. [Sixth Report, Issue 36:61-62.]

We recommended that CBC licence renewal hearings be preceded by a government statement on the funding to be provided over the licence period. The government statement would come in response to the CBC's own plans for the five-year period, setting out the Corporation's broad strategy and proposed allocation of resources. On this basis, as well as a parliamentary committee review of CBC plans (which we propose below) and the public comments provided through a licence renewal hearing, the CRTC would attach to the CBC's licence such conditions as it deemed appropriate in the context of the Canadian broadcasting system as a whole. [Recommendation 42.]

The CBC does already engage in internal long-term planning. Reference has previously been made to the five-year "Corporate Plan" for the years 1988-89 to 1992-93 which was approved by the CBC's board of directors in September 1987 and which included "three-year funding commitments" for its television and radio operations. The formulation of this plan, however, involves no public input or consultation; it is prepared on a voluntary basis, and is not formally tabled or discussed in Parliament.

The Committee believes that the CBC's five-year corporate planning exercise should be formalized. (Unlike other Crown Corporations, the CBC is not at present required to table a corporate plan in Parliament.) Preparation of the five-year plan should be part of the process leading to approval of a five-year funding intention. For the government and then for Parliament the plan would provide an opportunity to review the Corporation's strategy for the coming period, including the broad allocation of resources.

It is essential to state here that the five-year plan we have in mind is, and must be, a document fundamentally different from the Corporation's licence renewal application. It would be unacceptable for either the government or Parliament to consider a document which dealt with CBC programs. Considerations related directly to the CBC's radio and television programs are the responsibility of the CRTC. The plan we anticipate is one which would explain the Corporation's broad strategy for responding to its mandate over the ensuing five years. Naturally, the CBC's Board would be responsible for the development of this plan.

The CBC's five-year plan should be tabled in Parliament to permit consideration by an appropriate committee of the House. A report could then be tabled on the CBC's plans in relation to the Corporation's mandate from Parliament. This should be done before the government decides on a five-year funding intention.

Rather than usurping the role of CBC management, or raising the spectre of political interference or control, we believe this process will assist the CBC and Parliament in coming to terms with the problems and financial requirements of the Corporation. It will encourage public discussion of the CBC, better dialogue between the CBC and parliamentarians, and greater consensus on the CBC's interpretation of its legislative mandate and appropriate level of funding. The CBC would become answerable to Parliament for its general plans and approach. Parliamentarians and Canadians would become more aware of the CBC's problems and the pressures on it. Instead of presenting the public only with final decisions, this system should make Canadians aware of the options and considerations that go into decision-making.

The merits of such an approach are evident in the recent announcement of the CBC's British Columbia Radio Improvement Plan: the Vice-President of English Radio made a point of briefing members of Parliament from British Columbia, the provincial government, CBC employees and other interested groups prior to the announcement which was made on a province-wide radio broadcast, with an opportunity for questions from the audience. Openness is desirable for a corporation such as the CBC; it reduces criticisms of process and shifts attention to substance.

Recommendation 92

> The CBC should be required to prepare a multi-year corporate plan setting out the Corporation's long-term objectives, priorities and intended use of financial resources. This plan should be formally tabled in Parliament and referred to the appropriate committee for comment. It should become the basis for a five-year funding-intention decision by government and should provide the resource framework within which the CBC's licence renewal applications to the CRTC are prepared.

ASSESSING CBC EFFICIENCY AND EFFECTIVENESS

In the Committee's Fourth Report, we recommended that a comprehensive audit of the CBC by the Auditor General be required by legislation at least every five years. As with the Corporation's long-term plans, we believe such comprehensive audits should be tabled in Parliament and studied by a committee. As the problems with the CBC's 1985-86 Annual Report disclosed, and the Committee's Fourth Report emphasized, the CBC must be accountable to Parliament for its finances, and its financial management and accounting systems.

For several years, the control and financial accountability of Crown Corporations has been a preoccupation of the Auditor General. A servant of Parliament but independent of both the government and Parliament itself, the Auditor General reviews the accuracy and propriety of public accounts, and financial management on behalf of the taxpayers.

In addition to the Auditor General's examination of annual financial statements, periodic comprehensive audits of complex public corporations such as the CBC are clearly needed. A comprehensive audit is a broad-based examination of the systems and procedures used by management for planning, controlling and assessing operations and resources. The essence of a comprehensive audit is that it provides an independent external test of whether the resources available are being used effectively to achieve a corporation's objectives — in this case objectives established in the *Broadcasting Act* for the CBC, as well as the Corporation's own five-year plan for pursuing those goals.

Such an audit would verify the efficiency and effectiveness of the CBC. This is just as important for the Corporation itself as for the public and Parliamentarians.

These comprehensive audits should be tabled in Parliament, and referred to the appropriate committee for review. This would allow the CBC, the Auditor General and other parties to consider and explain inefficiencies and how they could best be remedied.

Recommendation 93

> Comprehensive audits of the CBC by the Auditor General should be required at least every five years and be tabled in Parliament and referred to the appropriate committee for study. The review of CBC's annual estimates should be used as a regular opportunity for Parliament to examine the degree to which any concerns identified in the comprehensive audit are being addressed.

THE CBC'S ANNUAL APPROPRIATIONS

A five-year corporate plan will help provide a standard against which the annual budgets and policies of the CBC can be measured. Changes to, or deviations from, the plan will require explanation. Performance can be evaluated. Progress can be charted more effectively.

At present, the Main Estimates of government spending contain three votes for the CBC, a lump sum for operating expenses, a separate vote for capital expenditures and a relatively small vote for working capital. Despite the large sums involved, the information provided to Parliament, especially about the operating budget, is meagre. The CBC may indicate that its various operations will each be given a certain percentage of revenues, but there is no assurance that these percentages will not change, or that such changes will be explained.

The CBC needs flexibility but the public also has an interest in ensuring that sufficient funds are going to the areas that are deemed most important. Under the approach we have proposed the CBC would indicate in its five-year plan how it intended to allocate its resources. The plan would provide the basis for the breakdown of CBC's proposed expenditures in its annual estimates.

The Committee believes that the process proposed for the examination of CBC's five-year plan should be complemented by a clarification of the procedures for indicating in the annual estimates its proposed allocation of funds and reporting fully after the fact how funds were used. The Committee has already proposed in its Sixth Report that in relation to Radio-Canada International (RCI) there should be a separate vote, which would ensure that funds approved by Parliament for RCI are in fact used for RCI. We believe some quite limited additional cases may exist where funds should be further disaggregated in the Parliamentary vote. The Committee is interested, for example, in the idea of voting funds for CBC radio separately from those for television.

Our concern here is primarily that CBC should, within the new planning process proposed, be more accountable to Parliament to use the resources voted by Parliament in a way that is consistent with its stated intentions as indicated in its five-year plan and annual estimates. The precise mechanism used to achieve this purpose is less important than the objective itself.

Recommendation 94

> Clearer and more detailed information should be provided to Parliament in the annual Estimates for the CBC, and the CBC's annual reports to Parliament should note and explain any changes in its allocation of resources from that proposed in the Estimates. Separate votes should be considered for major areas of CBC expenditure to reflect the Corporation's chief operating divisions and activities.

STRUCTURE AND INTERNAL ACCOUNTABILITY OF THE CBC

Clearly, the proposed accountability regime relies heavily on the CBC board of directors and management to impose financial discipline. We believe that process will enhance the authority and credibility of the board and senior management by improving the lines of communication and the accountability relationship between them and Parliament.

The Committee noted in its Sixth Report that it is imperative that greater attention be given to the choice of competent CBC board members who can provide effective guidance to the policies of the Corporation while reflecting the representation in the population of men and women, both official language groups, minority groups, and the regions of Canada.

We urge that the Board and Parliament study the organizational structure of the CBC. The Committee commissioned Jean D. Paquin of Coopers and Lybrand Consulting Group to prepare an explanatory document on the structure of the CBC. After describing the characteristics and problems of the present structure, he set out two basic options for changing it: (1) separation of radio and television broadcasting services, and (2) the division of the Corporation into five operating units, each with its own budget and greater delegated authority for its management. We believe more delegation of operating authority in the CBC is desirable.

Recommendation 95

> The CBC should review its internal operating and reporting structure, with a view to greater delegation of authority and the enhancing of its level of efficiency.

5.1.2 CBC Journalistic Accountability

Journalistic balance and fairness are particular qualities for which the CBC is accountable. Television and radio are the primary source of news for many Canadians. Despite complaints of politicians and others, it appears that Canadians generally consider the media, particularly the CBC, to be fair and objective when reporting on political matters.

These were among the findings of a survey conducted by Environics Research Group Limited in October 1987. The survey disclosed that of the four media categories — radio, television, newspapers and magazines — television is most often ranked first for objectivity (42 percent), accuracy (43 percent) and in-depth analysis (35 percent). A report on the survey's findings about specific television networks stated:

> Environics' research shows that Canada's state-owned network is the most trusted of our television networks. The CBC/Radio-Canada receives the highest scores for fairness (38%), accuracy (38%) and in-depth analysis (43%). CTV and its regional affiliates — BCTV and ATV — are given top ratings by only 17 percent for in-depth analysis and by 18 percent for objectivity and accuracy. [Michael Adams and Jordan A. Lovitin, "Media Bias as Viewed by the Canadian Public," in *Canadian Legislatures, 1987/88*, Robert J. Fleming, ed., Ottawa: Ampersand Communications Services Inc., 1988, at page 6.]

Complaints about news coverage are inevitable. The creation of press councils for newspapers is one means of dealing with these and in Quebec the broadcast media also belong to the press council. Ontario's Attorney General suggested several months ago that there should be some form of press council for broadcast media. We understand that the CAB is considering such a mechanism for the private sector.

Although the Environics Survey reflects well on the CBC, as a publicly-funded organization and a major news and public affairs operation, the Corporation is particularly vulnerable to criticism. The CBC itself recognizes that it has a special obligation to be impartial and fair in its news coverage. In its submission to the Task Force on Broadcasting Policy, the CBC stated:

> CBC journalistic programming must strive to achieve accuracy, fairness, balance and comprehensiveness. CBC journalists are agents for the public and therefore must be accountable and open, but independent in making journalistic and creative judgments in accordance with rigorous policies of professional fairness and accuracy. [Canadian Broadcasting Corporation, *Let's Do It!* Ottawa, December 1985, p. 19.]

The CBC also told of its plans to formalize a position similar to that of the ombudsmen in many newspapers:

> In an effort to establish a clear-cut framework for its journalists, the CBC employs a current and comprehensive manual of journalistic policies and practices. It also has a management system and an evaluation mechanism to determine when journalistic policies are not being followed and to ensure compliance when necessary...
>
> To justify public perception as an open and responsible institution and, at the same time, to be fair to its employees, the CBC has to be able to convince both parties that an objective assessment has been made.
>
> The Corporation has approached this problem, informally, by using the services of a senior employee with extensive journalistic experience as an independent arbiter of complaints with direct access to the President. This function will be formalized within the Corporation and its existence publicized outside the CBC so that those who feel aggrieved are aware that such a mechanism for independent arbitration of complaints does exist. [Canadian Broadcasting Corporation, *Let's Do It!* Ottawa, December 1985, pages 81-82.]

The CRTC, in awarding the CBC a licence to operate a 24-hour English-language news and information cable specialty service, stated that it expected "the CBC will make every effort to ensure that its journalists comply even more rigourously with the criteria it has established for the reporting of and commentary upon public affairs". The CRTC also said that it "expects the Corporation to put in place proper mechanisms to ensure such compliance, including constant monitoring and a regular reassessment of both the adequacy of the code's provisions and its effectiveness".

On 17 December, 1987 the CBC announced the establishment of a Journalistic Review Committee to help fulfill this expectation. The Committee will be composed of individuals from outside the Corporation. Its terms of reference will be to ensure fairness and balance for the all-news operation.

The Committee believes that a similar review committee should be considered for all of CBC's journalistic activities. There is obvious merit in having an objective body to review policies and complaints. Indeed, in its recent radio networks licence renewal decision [Decision 88-181], the CRTC invited the CBC to consider the establishment of such a fairness committee "as an appropriate means of protecting fairness in its news and information coverage and of dealing with complaints and comments from the public on the news and public affairs programming of the national broadcasting service". [p. 61.]

The results of the Environics' survey, while encouraging for the CBC, should not obscure the ongoing need for public confidence in the journalistic standards of public broadcasting.

Internal procedures or systems, are always subject to the perception of institutional bias or favouritism. Only an independent and objective body composed of eminent individuals can assure Canadians that their concerns and complaints are being dealt with properly, and thereby ensure both the "reality and the appearance of fairness".

Recommendation 96

> The CBC should establish an independent committee to review and propose corrective measures with respect to complaints and comments from the public regarding its news and information programming.

5.1.3 Labour Relations

The Report of the Task Force and our own inquiries as a Committee demonstrate the need for reform in labour relations practices at the CBC.

A study undertaken for the Task Force indicated that most of the labour relations problems in the broadcasting industry were in television, and particularly in the CBC. CBC problems were attributed in part to the complexity of labour-management dealings in the Corporation. It now has 31 collective agreements with unions and craft associations, covering a broader geographic area than private sector arrangements.

The study outlined difficulties caused by technological change, increased contracting out, jurisdictional disputes among the unions, and the rigidities built into labour relations by narrowly- and strictly-defined job specifications. Virtually all non-management CBC personnel belong to unions or craft associations. The study found that financial and operational flexibility at the CBC is sharply curtailed by the strong tradition of exempting from re-negotiation wage scheduling, job security and other benefits obtained in past contracts.

Faced with budget reductions, the CBC has had little room for concessions. There has been a tendency to require strict interpretation of contract clauses on both sides. The natural result has been a labour relations climate characterized by acrimony, protracted negotiations, greater numbers of grievances, and an overly legalistic approach to solving differences.

The Task Force study noted that "the largest employer in the industry, the CBC, has gone from an easy-going decentralization, where the unions could obtain almost anything they wanted, to a policy that many consider a threat to half the jobs in the Corporation". While this assessment was made at a time of substantial down-sizing due to contracting out and budget reductions, the fears and attitudes generated at that time have not yet been completely resolved.

The Task Force signalled the need for basic improvements to labour-management relations. Its Report stressed the need for greater cooperation in an organization with an essentially creative and cultural mandate at a time of both rapid technological change and uncertainty about its direction and resources. The Task Force found that CBC labour relations had evolved into an inappropriate pattern.

The Task Force recommended a fundamental review of all aspects of collective bargaining and labour-management relations in the Corporation by a federally appointed committee of inquiry. Its goal would be to ensure full use of available human resources in pursuit of the Corporation's creative and cultural objectives and in a labour relations regime especially suited to the CBC.

This Committee has received representations from a variety of CBC union leaders on the labour relations climate, practices and structures at the Corporation. Some of the complaints we heard did not seem particularly unusual, for example, that negotiations are overly protracted and that management does not give clear negotiating mandates to its representatives.

We were impressed, however, by the widespread observation among union representatives that internal CBC procedures to settle contract grievances were wholly inadequate and that all too frequently time-consuming and expensive recourse had to be made to the Canada Labour Relations Board (CLRB) to resolve conflicts. The charge is frequently made that CBC labour relations during the life of contracts is characterized by hostility, confrontation and a debilitating adversarial approach to resolving inevitable disputes and workplace ambiguities. We were disturbed to hear that the Corporation sometimes ignores the terms of contracts. Allegations have been made that the time and cost of appeals to the CLRB are used as a way of frustrating the efficient settlement of disputes on a day-to-day basis.

We have also been made aware that some, but not all, CBC labour groups regard the sheer number of contracts and the jurisdictional splits and tensions underlying them as needing re-examination and streamlining. These divisions may well be the source of some inter-union rivalries that complicate labour relations unnecessarily. But in the Committee's view these difficulties are not the principal concern of either the unions or management.

The central problem, we believe, is that in both contract negotiation and dispute settlement the CBC and its unions have failed to employ more effective internal methods to harmonize their interests. We concur with the Task Force that the present situation undermines the CBC's cultural potential. The energies of the Corporation as a creative production complex are being sapped by the narrow interests of factions and strata. Day-to-day tensions and rigidities must be eased.

We understand that, within its means, the CBC has gone a long way to providing reasonable levels of job security for those employee groups to which this has been a major concern. The provision of more secure long-term funding for the CBC which this Committee recommends may permit the continuation of such job security arrangements while preserving managerial flexibility in particular situations. Extension of job security provisions has to be matched by a lessening of the present rigidities governing employees' work.

Most of the labour representatives who appeared before the Committee agreed with the Task Force recommendation for an inquiry into labour relations at the CBC. While we understand that some may have changed their mind in the interim, the Committee believes that all aspects of CBC labour relations need to be examined, including the reasonableness of job security provisions, other contractual terms and conditions, internal procedures for contract bargaining and dispute resolution, and structural elements on both the labour and management sides. The Committee heard differing views on the type of adjustments needed to bring about improved relations at the CBC. Labour and management must feel themselves to be full partners in a very special public mission and should be consulted on the mandate of the proposed inquiry.

Recommendation 97

> The government should establish a committee of inquiry into CBC labour-management relations with a comprehensive mandate to identify and make recommendations about obstacles to the efficient and harmonious operation of the Corporation.

5.2 Review of Public Agencies and Programs

5.2.1 Introduction

As indicated in the Foreword, the Minister of Communications asked that we include in our review a careful examination of ways to ensure that the public funding committed to program production and broadcasting through the CBC, the National Film Board, Telefilm Canada and other policy instruments is used as efficiently and productively as possible. The Committee agrees that such a review is needed.

In considering the issue of co-ordinated use of public resources we have directed our attention to programming other than news, information and sports, because the performance in those categories (in terms of offering Canadian choices in appropriate time slots with competitive budgets) is already reasonably good. These are also categories in which most Canadian television viewing, in both French and English, is of Canadian programs.

The special survey carried out for the Task Force indicated that in 1985 the CBC and private broadcasters committed a combined total of $278.3 million to the financing of Canadian children's, entertainment, and arts programming. The entertainment category includes quiz and game shows, as well as TV series and feature films. As Table 5.1 indicates, $162.8 million was for English-language television, $115.5 million for French. The CBC accounted for 74 percent of such expenditures in English television, and 72 percent in French.

Table 5.1 Expenditures by CBC and Private Broadcasters on Children's Entertainment and Arts Programming, ($ millions) 1985

	CBC	Private	Total
English			
Children's	14.2	1.9	16.1
Entertainment, Arts	106.4	40.3	146.7
Sub-total	120.6	42.2	162.8
French			
Children's	13.1	.1	13.2
Entertainment, Arts	69.5	32.8	102.3
Sub-total	82.6	32.9	115.5
Total	**203.2**	**75.1**	**278.3**

Source: Based on Table 17.10 in the *Report* of the Task Force on Broadcasting Policy, p.437.

Two other federal agencies commit substantial resources to Canadian film and television — the National Film Board and the Canadian Film Development Corporation (Telefilm Canada). The 1988-89 Main Estimates indicate that Telefilm will have an appropriation of $101.5 million to assist in developing independent Canadian films and television programs. Telefilm provides support to producers primarily through the Broadcast Fund which it administers; however, nearly all productions through Telefilm's Feature Film Fund are eventually shown on television as well. The categories of production supported through the Broadcast Fund are those in which Canadian productions are in short supply, including drama, children's, variety and documentary. The National Film Board, which is a production agency, rather than a funding agency like Telefilm, has an appropriation of $66.4 million in 1988-89.

On May 5, 1988 the Minister of Communications announced that Telefilm Canada would have an additional $12.5 million annually over the next five years for its Feature Film Fund, that the NFB would receive $5 million annually to co-produce feature films with independent producers, and that $2 million a year would go to Supply and Services Canada to establish a fund for unsolicited proposals and to assist non-feature production in the regions. The Minister also announced that $17 million would be provided annually for a Film Distribution Fund to be administered by Telefilm Canada. This would also affect production since its purpose would be to support Canadian-controlled distributors in both investing in Canadian feature films and marketing them.

A significant complementary role has been played by the special Capital Cost Allowance (CCA) for film and television production. As we saw in section 3.8 this incentive has recently been significantly reduced. In addition to Telefilm, the NFB, Supply and Services and the CCA, the Canada Council also provides support to independent film and video producers, within its broad mandate to support the arts and Canadian creators. While the Council's role is a legitimate and important one, we have not given it close attention in this review of public agencies, since it does not represent the primary activity of the Council.

At the provincial level only four governments are directly involved in the operation of educational broadcasting agencies — Ontario, Quebec, Alberta and British Columbia. In addition, these provinces and the province of Manitoba also operate programs through which financial assistance is given to independent Canadian producers. The combined assistance to Canadian production through the five programs is about $20 million.

The CRTC also plays a significant role through its regulations and conditions of licence encouraging the exhibition and financing of Canadian programs. We reviewed those policies and made recommendations in Chapter 3. The role the CRTC plays among private sector Canadian broadcasters in strengthing the market for independently produced Canadian programs in the categories under review is of great potential importance.

5.2.2 Policy Objectives

The Committee believes that the success of the new era of broadcasting heralded by the new act will be measured by the delivery of an increased amount of programming that reflects Canada to Canadians. The goals of new programming considered by the Committee to be central for the future are expressed in Recommendation 23 of our Sixth Report:

> The Canadian broadcasting system should encourage the development of Canadian expression, providing a wide range of programming that reflects Canadian attitudes, opinions, ideas, values and artistic creativity, displaying Canadian talent in entertainment programming, and offering information and analysis concerning Canada and other countries from a Canadian point of view. [*Minutes*, 36:35.]

Clearly, this is not an industrial but rather a broadly cultural orientation, encompassing popular entertainment as well as arts programming. Almost all of the legislative and policy efforts recommended by this Committee hinge on the assumption that Canadian programming will be defined for purposes of Canadian content regulation, direct support programs or tax incentives in a way that reflects these objectives. This does not, of course, mean that we are opposed to attracting non-Canadian productions into Canada but simply that public financial support, either direct or through tax incentives, should not be used for that purpose. To the extent that Canada's production infrastructure, including talent, technicians, facilities and services, provides a competitive environment for producers from other countries, it brings important economic benefits to Canada.

Chapter 3 already recommends that the CRTC review its definition of Canadian content to reflect Canadian programming objectives as defined in a new act. In the remainder of this chapter we look at a reorientation of existing policy initiatives.

5.2.3 The Role and Mandate of Government Agencies

The Report of the Task Force noted that no enabling legislation has ever been passed to establish Telefilm Canada as an agency to fund television programs and state the objectives and other criteria the agency should consister when making funding decisions. Indeed, the only relevant legislation is the Canadian Film Development Corporation Act (CFDC Act), passed 20 years ago, which authorized the CFDC "to foster and promote the development of a feature film industry in Canada". The CFDC, which now operates under the name Telefilm Canada and administers the Broadcast Fund, has expanded its mandate on the basis of a Memorandum of Understanding between the Minister of Communications and the CFDC dated February 21, 1983 and revised on March 15, 1985 and March 30, 1987.

The Task Force considered this arrangement to be unacceptable and recommended that legislation be passed formally establishing Telefilm Canada as an arm's-length agency of government and providing it with a mandate for administration of the Broadcast Fund. The *Report* recommended that the legislation make it clear that Telefilm Canada's support for television programming is intended to further the goals of the broadcasting act through increased production of television programs made under the creative control of Canadians and intended primarily for Canadian audiences.

The Committee believes this recommendation should be implemented as soon as a new broadcasting act has been passed. The Committee also notes that the Minister of Communications has clearly expressed her understanding that the goals of Telefilm and the Broadcast Fund are cultural. In responding to the Committee's written questions the Minister replied:

> Making productions in Canada to appeal to an American audience is a legitimate business decision. The Government would not presume to comment on any such decision, except where public funds are involved.
>
> The issue is where the target audience is. Our objective is to enable Canadian producers to connect with Canadian audiences. That is what the Broadcast Fund is meant to facilitate... If... we aim primarily at the international or American audience the authenticity might be lost; the activity becoming basically industrial...,
>
> ...The goals of the Fund are cultural. Its industrial benefits are an important but secondary bonus. [Response by the Minister of Communications, pages 46 and 47.]

Recommendation 98

> As soon as a new broadcasting act has been passed, legislation should formally establish Telefilm Canada as an arm's length agency of government and provide it with a mandate on which to base its administration of the Broadcast Fund. The legislation should make it clear that Telefilm Canada's support for television programming has as its objective the furthering of the goals of the broadcasting act through increased production of television programs made under the creative control of Canadians and intended primarily for Canadian audiences.

The Task Force also recommended that the legislation under which the National Film Board operates, be amended to extend the NFB's mandate to include broadcasting. The recommendation reflected a concern that, although the Government commits substantial resources to the Film Board, its productions are rarely seen on television, particularly in prime time.

The Task Force judged the NFB to be a significant producer of television documentaries featuring contemporary social issues, as well as an important source of educational and children's programs for the new networks the Task Force proposed. In addition, the Report recommended that the NFB be encouraged to continue its regional role — using local talent to make films for television reflecting regional points of view for national audiences — as well as continuing to produce women's films.

The Committee notes that the NFB has become more involved in independent production projects. The Board's contributions have increasingly taken the form of providing facilities and services, as well as financial support to projects that Telefilm Canada is also supporting. In 1986-87, for instance, $2.2 million was spent on French-language projects split 50:50 between facilities and cash, and $3.4 million on English-language projects split 65:35 facilities-to-cash.

In its presentation to the Committee the National Film Board agreed that "There is no doubt that television, or electronic delivery systems, are key to the NFB achieving greater access to the Canadian public." [*Minutes*, 61:56.] However, the Film Board was opposed to amending the *National Film Act*, as the Task Force proposed. Instead, the Board favoured an amendment to its act which would simply change the definition of "film" to encompass all techniques for creating and recording visual images. The Committee agrees.

Recommendation 99

> The *National Film Act* should not be amended, as the Task Force proposed, to extend the Film Board's mandate to broadcasting. However, the Board's mandate as a producer should be amended to apply to videotape or other technical means for producing visual images, as well as to film.

5.2.4 Restructuring Public Support to Independent Canadian Production

The history of support for independent Canadian production shows that initiatives which concentrate on financing production often respond primarily to industrial rather than cultural goals. The most visible example was the boom in feature film production in response to the Capital Cost Allowance for film and videotape production. A recent study for the Department of Communications concluded that

> ...the CCA has achieved its economic objectives related to film investment production and employment, but its effects on film industry development and attaining Canadian cultural objectives have been minor... [DPA Group Inc., "Study on Incentives for the Production and Exhibition/Distribution of Canadian Films, Videos and Sound Recordings," prepared for the Department of Communications, August, 1987.]

By comparison, when production financing has been linked to effective distribution or exhibition in Canada, the results have been considerably better in generating productions aimed primarily at Canadian audiences and somewhat better from the perspective of developing a domestic production industry. The Broadcast Fund has had that great advantage over the earlier reliance on the CCA, since producers do not receive financing unless their projects are to be shown on Canadian television. Nevertheless, with the substantially increased direct support being provided by Telefilm Canada, the CCA itself has become a valuable means of raising complementary private investment.

The remaining difficulty is that producers still receive only a small amount of money when they sell a Canadian broadcaster the right to show their programs. As shown in 3.8 above, Canadian producers recover only an average 23 percent of their funds from the domestic market while producers in most other countries recover all, or a substantial majority of their funds at home, and sell abroad to make profits rather than to recover costs.

What makes Canadian production possible in these circumstances is other public support, which often comes from more than one source — including Telefilm Canada, the NFB, provincial funding agencies and private investors motivated by the CCA. The difficulty is that all of these participants expect to get their money back before the production earns a profit for the producer. If the producer accepts the need to pay everyone back before turning a profit, the substantial majority of revenues must be earned outside Canada — which creates pressure to tailor the production mainly to the demands of foreign buyers. If this is done, the goals we propose for Canadian television programming cannot be achieved. Moreover, the record clearly shows that the revenues required from foreign sales cannot possibly be achieved. This is reflected in the fact that Telefilm's return on its "investments" ranges from a high of 9.1 percent on English-language children's programs and 5.6 percent on French-language variety programs to a low of 1 percent on documentaries in either language.

In the Committee's view, the chief benefit to be derived from Canadian production should be a creative one. At present however, the creativity is more often than not harnessed by the majority source of the producer's earnings. As Ian McDougall told the Committee on behalf of the Canadian Film and Television Association in March, 1987:

> Too often in Canada, because we have to go to the United States for such a large portion of our funding, we have to take their prerogatives and to water down our programming in order to fit the market. It seems to fall between the two stools: it is neither good Canadian nor good American programming. [*Minutes*, 24:91.]

The dilemma for French-language producers is even more difficult, since they do not have ready access to the lucrative American market. French-language foreign markets are much more limited then English and until recently it has been difficult to sell in France at all, much less to achieve a substantial return there.

The Committee believes the next logical step is to strengthen the domestic marketplace both for independent Canadian production in French and English and for producers in all regions. The proposals offered here are intended to serve that purpose. It should be noted that our recommendations do not require additional public funds but only a substantial reallocation of existing resources. This does not mean that additional funds are not desirable;

however, in order to make a clear distinction between issues related to resource allocation and those concerned with levels of funding, we have addressed the latter separately in Chapter 9.

Our recommendations for restructuring public support to Canadian production involve the CBC, Telefilm Canada, the NFB and a new television service.

ALTERNATIVE PROGRAMMING SERVICES

The Committee considered alternative non-commercial programming services in English and French in its Fifth Report. At that time we indicated that the programming priorities for such services included providing a national market and national distribution for productions from all regions of Canada, and originating programming in production categories not well provided for in the existing system such as the performing arts, and children's.

The closest approximation to the model we envisage is Britain's Channel Four, which provides innovative complements to the programming offered by other broadcasters, and plays a leading role in developing programs in music and the arts, documentary production, feature films, and so on. Like Channel Four, we propose that the new services *not* carry out production in-house, but acquire all of its programming from outside sources. To be effective, these services require adequate funding which will make them a substantial market for new Canadian programming. Unlike Channel Four we would not want the new service to carry news and sports, categories of production already well provided for. The services would also differ in their financing and method of distribution.

In its Fifth Report the Committee stated that public policy related to the development of satellite-to-cable specialty channels should give priority to the implementation and carriage of such services. We note that the CRTC's November 1987 decision did not reduce the need for such services. However, the decision does affect the extent to which reliance can be placed on revenue from cable systems, since the cost of the services already licensed has to be recognized in planning any new initiative.

In the present circumstances we believe it would be desirable to reallocate substantial sums of money from the National Film Board and Telefilm Canada toward the alternative services. In the case of the Film

Board our proposal is to link a majority of the resources now provided to the Board directly to television exhibition, thus ensuring that the productions so funded will actually be seen. However, we also propose to leave the Board with sufficient resources to continue its pursuit of important projects which may not be appropriate for television exhibition. Where the Board is already engaged in projects involving independent producers and Telefilm Canada, the result will be a more efficient use of public funds and a more straightforward process for producers trying to raise production financing. We suggest that $40 million of the NFB appropriation be tranferred to the proposed new services.

In the case of Telefilm Canada, a substantial amount should also be reallocated, largely from the Feature Film Fund. In our view, the issue is not whether there should be public support for feature film production, but rather how best to provide that support. In the case of Telefilm Canada, such support is now provided as investment, with the producer looking for markets from which to recoup production costs. We believe it would be preferable to transfer most of this money to the new services, allowing them to use those funds to buy the right to show Canadian films. The obvious exception is all aspects of Telefilm support intended to strengthen Canadian film distributors and their role as investors and marketers of Canadian films to movie theatres. We note that there is a very successful parallel in Channel Four involvement in the revitalizing of feature film production in Britain. Before implementing this change, we believe that consultation with the production industry should occur in order to ensure an orderly transition. It is our intent that the feature films shown on this new service would receive theatrical exhibition first and appear on pay television as well. We propose that at least $30 million be transferred from Telefilm to the funding of these new services.

In the case of the French-language service, our views have been influenced by the licensing of TV-5 in November, 1987. As licensed, the TV-5 service will carry only 19.5 percent Canadian programming and will have only $4.9 million for Canadian programming in its first year of operation. It may be more desirable, instead of creating a separate French-language alternative programming channel to use the available resources to increase the proportion of Canadian programming on TV-5.

With respect to cable funding, the Committee notes that the newly-licensed private sector services carry costs to cable system operators which range from no charge at all to a high of $.72 the first year for *The Sports Network* in English and $1.00 for *Le Réseau des Sports* in French.

In the case of the proposed alternative services, we recommend that they both be provided at a single combined rate, and that both services be available across Canada. In other words, systems paying for the English-language service could have the French as well at no additional cost and vice versa. This would facilitate the provision of a greater variety of services to official language minorities and would complement the other recommendations made in Chapter 6 with respect to service to official language minorities.

We recommend that the charge for the two services should be at least $.60 in the first year, rising to $.80 in the second and $1.00 the third with subsequent adjustments for inflation. We also recommend that service in the language of the majority should be carried on basic in systems carrying other licensed commercial specialty services. At these rates cable charges would generate an estimated $40 million during the first year, rising to $70 million in the third year.

The objective underlying these proposals is to secure the financial resources required to make a meaningful contribution to Canadian television programming. At the levels we estimate the total resources would be as follows:

Year 1	Year 2	Year 3
$110 million	$125 million	$140 million

Ideally, some new money would be added to these amounts but the initiative would be well worth taking even with these resources.

In order to be effective the services proposed will need to operate under a board of directors able to provide clear direction and a consistent sense of purpose to the managers of these services. A clear mandate or statement of purpose will also be required. Since the new services would depend heavily on federal funding, there will need to be appropriate provisions for accountability to Parliament and the government for the use of the funds provided.

Recommendation 100

> New satellite-to-cable broadcasting services should be created on a not-for-profit basis. These would be predominantly Canadian in content and character and would in their programming emphasize productions from all regions of Canada, and would provide high quality Canadian programming in program areas not now well served by existing services, including the performing arts. In the case of the French-language service, the option of increasing the proportion of Canadian programming on TV-5 should be considered as an alternative to creating a new service.
>
> The services should be funded by a reallocation of funds from the NFB and Telefilm Canada and a per-subscriber charge to cable system operators of at least $.60 the first year, $.80 the second, and $1.00 the third, with subsequent adjustments for inflation. The cost should include both the French- and English-language services. The service in the language of the majority should be carried on basic service in systems which carry at least one other licensed specialty service on basic service. Since a substantial portion of the funding for these services will be provided by the federal government, they should operate under a structure which can ensure full accountability for the use of the public funds involved.

CBC AND TELEFILM CANADA

The CBC has always been the leading Canadian broadcaster in accepting outside production. Indeed, prior to the mid-1970s, the CBC was effectively the only broadcast consumer. Before that, private broadcasting relied heavily on outside production coming from subsidiary companies.

The Corporation formalized its relationship with the growing independent sector in 1980 with the creation of the Office of Independent Production. At that time its strategic planning also began to reflect the expectation of increased amounts of outside production, restricted only by obligations to its unions and progressively declining resources.

Since the inception of the Broadcast Fund at Telefilm Canada (of which up to 50 percent is available to CBC-commissioned projects), the Corporation has taken advantage of the financial leverage provided by being able to commit to independent production, particularly during its recent years of budgetary restraint.

At present independent producers preparing projects for the CBC must go first to the CBC for approval of their project and then to Telefilm Canada. They may also deal with the NFB or provincial agencies and private investors and they must gain their project certification as Canadian for purposes of the CCA incentive. What they receive from the CBC is a license payment, while Telefilm's support takes the form of an investment. The CBC advised the Committee that in 1987-88 it will have paid $14 million in license fees for English-language projects, representing an average of 19.8 percent of the costs of the independent productions they purchased. For French-language productions in 1986-87, the CBC spent $12.5 million, on average, 12.2 percent of the budget. The same projects had Telefilm "investment" of up to 49 percent of the budget, and often other public support as well.

The Committee believes that instead of providing funds to both the CBC and Telefilm to finance the same productions, the resources now split between the two agencies should be given to the CBC on condition that they be used to acquire independent productions. The amount involved would include a reallocation of half that amount now provided to Telefilm for the Broadcast Fund plus the roughly $25 million the CBC is already committing to Telefilm projects. It would be necessary to provide independent producers with the assurance that the result of such a change would not be a reduction in the public funds available for independent productions made for exhibition on the CBC.

The benefits of this change would include reduced administrative expense in Telefilm Canada. For 1987-88 Telefilm's administrative costs were $10.2 million from a budget of $115.0 million [Main Estimates, 1987-88], or roughly nine percent. These administrative saving should be reflected in the increased amount allocated to CBC; as a result more money should end up in production.

There would be two benefits for producers. First, it would be easier to organize the financing of a production being undertaken primarily for the CBC. Second, producers would receive a much higher licence fee. If this approach had been in effect in 1987-88 the CBC would have been voted approximately $60 million which could have been used to pay licence fees to independent producers. Levels of payment by the CBC, (which is still the main buyer of independent production) could then rise closer to the percentage of production costs covered in other countries.

Recommendation 101

> Rather than providing money separately to both the CBC and Telefilm Canada to assist in financing the same independent productions to be shown on the CBC, the combined amounts (including administrative savings) should be made available to the CBC on the provision that this funding be used only to acquire the right to exhibit independent Canadian productions. The amount provided would include both the amount the CBC now spends on such productions plus half of the total funds now included in the Broadcast Fund of Telefilm Canada (CFDC). The total amount should rise in future years to keep pace with increases in the Broadcast Fund.

GUIDELINES FOR THE BROADCAST FUND

The Task Force recommended that Broadcast Fund guidelines should help acheive the goal of a sound domestic market for indigenous production. It said the Fund should match licence fee payments made by broadcasters. This was combined with recommendations that the Fund mainly support films made primarily for Canadians and that it have minimal involvement in projects designed primarily for sale in foreign markets. The Task Force wanted Telefilm to limit its role in evaluating projects requesting funding essentially to deciding whether they were consistent with the agency's mandate.

The Committee favours the recommendation that Telefilm match broadcaster license fees. This would encourage licence fees paid to independent producers to rise (particularly in conjunction with other incentives for private broadcasters as discussed in Chapter 3). If such fees from the broadcasters reached the 35-percent level, as originally envisaged by the Broadcast Fund, then as a fully approved project, a producer could reasonably expect to receive 70 percent of his or her gross revenue from the Canadian market.

In the short run it is possible that the amount Telefilm would commit to projects produced for sale to private broadcasters might be reduced, if this new approach to determining the extent of Telefilm assistance were adopted. This is likely, however, only if the CRTC does not succeed in its efforts to get broadcasters to commit increased funds to Canadian production, and assuming that the alternative approach the Minister has been considering will not be adopted.

The Committee cannot in principle see why a private broadcaster should not be expected to match — dollar for dollar — the funds being put up by the government. If there are particular categories of production in which, for special reasons, the government's role should be greater than the broadcasters', a different matching basis could be established. This might be the case for example, with children's programming, or perhaps for projects from designated regions. The ratio might then be 1.5 to 1 rather than 1 to 1, or whatever was deemed appropriate. A matching basis leaves open the possibility of such variations in the matching formula.

The Committee believes that if public policy can be co-ordinated so that public funding serves to stimulate more effectively a larger domestic marketplace, then the industrial and cultural goals of independent producers will increasingly converge. On this basis, an industry can be built that is motivated to produce for the Canadian market first and foremost. The result, however, should also be that Canadian producers will be more likely to be successful in competing in the international market, since they will have a domestic market base more like that enjoyed by their major competitors for international sales.

With respect to restricting the creative role of Telefilm Canada in processing Broadcast Fund applications, the Committee favours the position taken by the Task Force in its *Report*. It should be made clear that this does not mean that Telefilm Canada's discretion in funding a production would be limited in any way. In fact, it should strengthen Telefilm's ability to say that project "A" is consistent with the goals of the *Broadcasting Act* and with Telefilm's mandate and therefore will receive matching license fees, and project "B" is a good business deal because it is pre-sold in two foreign countries and will therefore receive profit-motivated investment.

Recommendation 102

> The Guidelines for the operation of the Broadcast Fund should help achieve the goal of a sound domestic market for indigenous production. Broadcast Fund involvement in television production should be altered so that support will be provided principally in the form of matching licence fee payments made by Canadian broadcasters. Support from the Fund should be provided principally to programs made primarily for Canadians by Canadians, and based on the expectation that such productions must recover most of their revenues in the Canadian market.

Recommendation 103

> In future, support through the Broadcast Fund for programs designed primarily for sale in foreign markets should be provided on the basis of profit-motivated investment, and the Fund's involvement in such projects should not account for a major portion of expenditures.

Recommendation 104

> Telefilm should determine that projects supported by the Broadcast Fund are consistent with its mandate and eligibility criteria, and that those projects have the required commitment from a Canadian broadcaster to exhibit them. Creative control shall rest with the producer, subject only to the terms of the producer's agreement with the broadcaster.

5.2.5 Tax Incentives for Investment in Canadian Production

Earlier, we quoted from a study by the DPA Group Inc. prepared for the Department of Communications. That study concluded that the impact of the CCA incentive on the achievement of cultural goals was minor, or was simply an indirect consequence. Nevertheless, the study observed that the impact of the changes proposed to the CCA, in combination with the more comprehensive measures in the tax reform package, could place at risk up to 18 percent of total film production in Canada. The study concluded as well that the loss of this incentive might well be particularly damaging to regional productions and to French-language productions. Because of its concern about the need of private investment to complement direct public expenditures, the government of Quebec has for several years enhanced the CCA through its own special CCA incentive, which the recent Quebec budget has enriched.

The Committee believes that maintaining an effective incentive for investment in Canadian production is important. We noted with interest the potential which the DPA study identified to establish a tax incentive more consistent with public policy objectives. The Committee concurs that this is the direction tax policy affecting both Canadian film and television production, as well as sound recordings and audio program syndication, should take.

Recommendation 105

> Effective incentives should be provided in the tax system to promote investment in Canadian films and videotapes, sound recordings and syndicated audio programming. The incentives established should reflect Canadian cultural objectives.

6.0 SERVICE TO MINORITIES

6.1 *Native Broadcasting*

In our Sixth Report we recommended that the right of aboriginal people to broadcasting services in representative native languages should be entrenched in a new broadcasting act. [Sixth Report, Recommendation 27, 36:38.] This recommendation has far-reaching implications, many of which we shall now address.

The Committee believes that all Canadians should take pride in the remarkable achievements of native broadcasting. Aboriginal broadcasting in our northern regions is a uniquely Canadian success story and serves as an example to the rest of the world. The large number of briefs and presentations received by the Committee on the subject of native broadcasting attests to the vitality of this new sector and underlines the need for a careful and considered response to the issues raised. Our recommendations are designed to place aboriginal broadcasting, especially native-language broadcasting, on a firm foundation that will enable it to continue to flourish in the North and expand to meet the needs of the native populations elsewhere in Canada.

6.1.1 Role of the CBC

The Committee has recommended that the broadcasting act should give the CBC a clear mandate to provide aboriginal language services. [Sixth Report, Recommendation 37, 36:55.] The CBC already plays a critical role in native language broadcasting in the two territories and in the northern regions of six provinces. We believe its role should be strengthened. The Task Force and the CRTC concur with this position, as do most independent native communications societies. The societies, however, do not want to see the role of the CBC strengthened at their expense. The Committee agrees. Our recommendations are designed to fortify the activities of both the independent native communications societies and the CBC.

The Committee believes that the first priority of the CBC in relation to its native languages mandate should be to increase opportunities for independent native producers throughout Canada to air their aboriginal language programming on the regional distribution systems of the CBC. To this end, we have made recommendations to enhance the CBC's capacity to distribute native language programming produced by many of the independent native communications societies now functioning in the northern regions of the country. The CBC could also become a primary vehicle for distributing native-language access programming in many parts of southern Canada as the societies there develop production capabilities.

The Committee believes that, over time, the CBC should also increase production of its own native language programming. The CBC's native language programming should, however, complement the access programming produced by independent societies as it does now in its Northern Service region.

The Task Force recommended that the CBC establish an autonomous aboriginal-language service, as there are now distinct French and English services. [*Report*, Recommendation 20.2, p. 520.] We agree that there should be an administrative focal point for aboriginal language services in the CBC and that its operational and management structure should be adjusted to accommodate this new responsibility. We do not see the need for an autonomous division within the CBC until such time as the services are in place to warrant its creation. Aboriginal language broadcasting is in its infancy. There are few native language speakers in many parts of the country and very few experienced native broadcasters in most regions. As there are more than 50 distinct aboriginal languages in Canada, services to the aboriginal population will be primarily local or regional. This precludes modeling native language services along the lines of the French or English services of the CBC.

Recommendation 106

> The CBC should develop a long-term plan in consultation with the native population to accommodate its new responsibilities regarding the provision of aboriginal language services throughout Canada. The plan should include operational and management structures to accommodate this new responsibility.
>
> The CBC should be given a special parliamentary appropriation to implement its plan, once it is approved.

> The first priority of the CBC in relation to its native languages mandate should be to improve access for independent native language producers in all regions of Canada.

6.1.2 Distribution of Native Programming

Most of the native submissions and presentations to the Committee dealt either in whole or in part with programming distribution. The National Aboriginal Communications Society (NACS) identified the need to improve native programming distribution in both the northern and southern regions of Canada. NACS endorsed the Task Force recommendation regarding the need for a dedicated northern transponder to be shared by independent native communications societies and the CBC. [*Report*, Recommendation 20.3, p. 522.] The CRTC also supported the concept of a dedicated northern transponder to be shared by the CBC and northern native broadcasting societies, including those in the northern regions of Labrador, Quebec, Ontario and the western provinces. [CRTC, *Public Notice 1985-274*, pp. 28-29.] A consortium of six northern native communications societies, NACS and the two territorial governments, presented the Committee with a proposal to establish a new northern television network designed primarily to distribute the programming produced by northern native broadcasters. The Television Northern Canada (TVNC) proposal requested approximately $11.4 million over five years for a distribution system utilizing a dedicated satellite transponder under the control of its members.

While the Committee commends the TVNC consortium for its imaginative proposal, we believe that its primary objective would be better served with the CBC at the centre of the distribution system. As we noted in our Sixth Report, the maintenance and support of the aboriginal languages, and through them the transmission of native cultures, is so important that it should be linked to the national broadcaster since the goals of the nation and the need to spend public funds are involved. If given the financial resources, we believe the CBC can best respond to the complex distribution problems associated with native language services throughout Canada.

Recommendation 107

> The CBC should serve as the principal vehicle for the distribution of aboriginal language programming in regions throughout Canada.

In Section 3.3 of this report, we recommend the creation of a CBC northern regional television service on a par with other CBC regional services. We believe that, particularly in the North where native people are in the majority, the CBC must ensure that its television service responds to the needs of the northern native population for aboriginal language programming. The CBC has indicated that it is not possible to accommodate programming from the national network, northern regional television programming in English and in aboriginal languages and more northern native language access programming on a single system. We agree with the CRTC that new ground facilities, including second transmitters in many communities and additional northern uplinks, may be required along with a satellite transponder dedicated to northern Canada. [CRTC, Public Notice 1985-274, pp. 28-29.]

Recommendation 108

> The CBC should put in place a satellite distribution system dedicated to serving northern Canada. It should include additional ground stations and second transmitters where necessary, in order to accommodate increased levels of CBC northern regional programming and native language access programming.

A dedicated northern distribution system similar to that proposed by TVNC, but developed and managed by the CBC, would cost a minimum of $3 million a year over the next five years. Since the system would provide several new audio channels, it would allow for greater radio distribution flexibility throughout mid-Canada and the North. If audio uplinks and ground receiving facilities were installed, it could greatly assist many of the native communication societies now operating in provinces, as most of these societies produce radio programming.

Recommendation 109

> Where possible, the CBC satellite distribution system dedicated to serving Canada's northern regions should accommodate the distribution requirements of native communication societies, including those located in the northern regions of the provinces. Funding for the installation of ground facilities should be made available in order to accomplish this objective.

The Task Force recommended that the CBC should give special consideration to serving isolated aboriginal communities that request service, regardless of size. [*Report*, Recommendation 20.5, p. 523.] The Committee agrees with this recommendation. The extension of CBC services to these small, underserved native communities, most of which are located in northern Canada, would not only bring the full national CBC service but also create local and regional native access opportunities.

Recommendation 110

> The CBC should give special consideration to serving isolated aboriginal communities that request service, regardless of size, and its appropriation for capital expenditures should reflect the special needs of such communities for broadcasting service.

It is difficult to forecast the distribution systems required to serve aboriginal populations in southern Canada since very little native broadcasting has been developed there and little is known about their needs and priorities. The CBC may not always be the most practical way to reach certain native populations in the South. Provincial public broadcasters, following the example of TVOntario which distributes WaWaTay's radio and television programming in northwestern Ontario, could become more involved. The cable industry might provide the best mechanism for the distribution of aboriginal programming to native populations in urban centres. Native-oriented programming in English and French is the first priority of most urban aboriginal people, according to the spokespersons from Indian Friendship Centres in British Columbia and Ontario.

Recommendation 111

> Other elements of the Canadian broadcasting system should also provide for the distribution of native programming, including programming in aboriginal languages, where that is appropriate and there is sufficient demand.

6.1.3 Native Broadcasting in the South

Funding for native broadcasting in Canada is inequitably distributed. Programming produced with federal funding under the Northern Native Broadcast Access Program (NNBAP) reaches approximately 200,000 native northerners. More than 560,000 aboriginal people, about 75 percent of the native population, live south of the arbitrary boundary line denoting the region covered by the NNBAP. [Stiles Associates Inc., *Study of the Implications of Proposed Aboriginal Language Broadcasting Legislation*, Ottawa, Department of Communications, 1988, p. 30.] Although there are independent native media societies in some regions of southern Canada, none receives enough funding to sustain broadcasting services on a regional basis. Societies south of the NNBAP boundary line receive an average of $250,000 annually from the Native Communications Program administered by Secretary of State. This funding is used mainly for print media services. By contrast, NNBAP-funded societies receive an average of more than $1-million annually [Stiles, p. 32.] NACS and the Federated Saskatchewan Indian Nations pointed to these inequities in their presentations to the Committee. The Inuit Broadcasting Corporation noted, however, that while the development of native broadcasting services in the South is a priority, it should not be accomplished at the expense of native broadcasting in the North. The Committee agrees. We endorse the recommendation of the Task Force on this issue regarding the need for consultation leading towards a native broadcasting policy for the entire country. [*Report*, Recommendation 20.4, p. 523.]

Recommendation 112

> A general policy of native broadcasting should be established for the entire country. The federal government should consult with native people throughout Canada in the development of this policy. Representative native organizations should be given funding to conduct their own research in the regions and centres where native broadcasting needs and priorities have not been established.
>
> Production funding should be provided to independent native communications societies in communities and regions where no native services currently exist. The funding should come from new sources so as not to diminish existing programs supporting native broadcasting in the North. Priority should be given to funding broadcasting services in aboriginal languages.

6.1.4. Community Radio

The OKaliKatiget Society of Labrador and the Société de communication Atikamekw-Montaignais of Quebec made forceful presentations to the Committee regarding the need for increased support for native community radio. Other than about $300,000 of funding available annually under the Native Communications Program of Secretary of State, there is no federal program to support native community radio. Some limited assistance is provided at the provincial/territorial level, most notably in Quebec. One recent report indicates that most of the approximately 160 native community radio stations in Canada are in perilous condition. [Canada, Secretary of State, *Community Radio in Native Communities*, Ottawa, Native Citizens Directorate, 1986, p. 5.]

The Committee realizes that many native communities in Canada do not have the economic base to support adequately community radio stations. Recognizing the important role that community radio can play as a first line of communication and as a means for distributing native regional programming, we make the following recommendation.

Recommendation 113

> The criteria of existing federal programs supporting native broadcasting should be amended to allow for increased subsidies for native community radio. Any new federal program supporting native communications should include assistance for native community radio.

Two private northern broadcasters, CJCD Radio Ltd. and CKRW Radio (Klondike Broadcasting Company Ltd.), told the Committee that government-funded native broadcasters in their regions posed unfair competition. They testified that the native broadcasters attracted a significant proportion of the young native and the non-native audience by broadcasting in English and by playing popular music. Among the alleged problems was the failure of such stations to meet the minimum Canadian content requirements which apply to private stations. The Committee regards these allegations as serious. They speak to a general concern shared by all Committee members — the need for appropriate and responsive regulation. We have a concomitant responsibility to ensure that, while we have called for increased public support for native broadcasting in Canada, proper controls should be in place to accompany our recommendations.

Recommendation 114

> All programs in support of native broadcasting should be evaluated on a regular basis to ensure that the language and cultural goals of the programs are met.
>
> The CRTC and the Secretary of State should ensure that native broadcasters produce distinctive programming that does not unfairly compete with private broadcasters serving the same market.

6.1.5 Other Issues

The Committee's recommendations have, for the most part, focused on native language broadcasting. We have, however, received strong representations that lead us to conclude that more should be done to foster programming in Canada's two official languages *for* and *about* aboriginal people. Katip Aim Media Productions Ltd. of Saskatchewan, Indian News Media of Alberta, the British Columbia Indian Friendship Centre Association and the Thunder Bay Indian Friendship Centre expressed the need for more mainstream English language broadcasting that reflects native cultures and artistic achievements to Canadians. A representative of the Writer's Guild of ACTRA (Winnipeg Branch) suggested that Canadians need to become better informed on native issues because our performance on native issues is often the window through which the rest of the world judges us. Many who appeared before the Committee deplored the demise of *Our Native Land*, the CBC native affairs program which was broadcast on the English radio network for more than 25 years. Committee members were pleased with the CRTC decision directing CBC radio to re-establish a program dedicated exclusively to native concerns in addition to its current efforts to include native interest issues in its mainstream programming. [CRTC, Decision CRTC 88-181, p. 78.]

Recommendation 24 in our Sixth Report is designed to ensure that the Canadian broadcasting system as a whole better reflects the multicultural reality of Canada, including the culture of aboriginal Canadians. We also make recommendations in that report which would empower the CRTC to implement employment equity provisions which the Committee believes should be incorporated in a new broadcasting act. Such provisions would increase the representation of minority groups, including native Canadians, in the broadcasting workforce. The Committee has also made recommendations concerning the need for a balanced representation of all segments of the population on the CBC Board of Directors and the CRTC.

The Task Force recommended that native broadcasting be administered at arm's length from the federal government. The Committee believes that it is too early in the development of native broadcasting to create a special agency to administer it.

Fran Williams of the OKaliKatiget Society from Labrador spoke of the need for funding to support native broadcasting training. NACS and several other societies stated that the lack of an adequate funding base for training was among the most serious problems facing the sector. A recent study commissioned by the Department of the Secretary of State indicates that after 1985, funding from the Canada Employment and Immigration Commission (CEIC) for training in each northern native broadcasting society fell, on average, by approximately 50 percent. [Stiles Associates Inc., *Study of Northern Native Broadcasting Training*, Ottawa, Native Citizens Directorate, 1988, p. 26.]

The native broadcasting societies are at a further disadvantage because there are few institutional training opportunities for northern native broadcasters. As well as providing their new staff with technical and journalistic training, the societies are also often required to give them academic upgrading and language training because formal education levels among the native labour force are often low. The Committee is concerned that insufficient funding for training has the potential to jeopardize seriously present and future native broadcasting initiatives.

Recommendation 115

> The federal government should ensure sufficient resources are made available to meet the present and future training requirements of the native broadcasting sector.

6.2 Official Language Minorities

French-speaking Canadians outside Quebec and English-speaking Canadians in Quebec comprise the official-language minority communities. To quote the Task Force Report [p. 529]:

> Collectively referred to as official-language minorities, individually they are Franco-Albertans, Franco-Ontarians, Acadians, English Montrealers, Townshippers ... and the like. Their individual identity has much to do with regional cultural heritage as well as with language. What each group wants from broadcasting is more than simply the provision of French-language or English-language services. Each group wants programming that reflects the culture of its community and region.

The Task Force identified three concerns of official language groups: access to public broadcasting services; adequate programming choice for French-language minority groups; and adequate local and regional programming to meet the broadcasting needs of their communities, which they felt necessitated a strengthened CBC regional service. Our witnesses, from the Yukon to Nova Scotia, echoed these concerns.

6.2.1 Availability of Public Broadcasting Services

In our Sixth Report, the Committee recommended that, under a new act, the CBC continue to be required to provide service in English and French and to serve the special needs of the geographic regions. [Sixth Report, Recommendation 35.] We went on to state that the new broadcasting act should also require that services of the CBC be extended to all parts of Canada, as public funds become available. [Sixth Report, Recommendation 41.]

Radio and television services may be made available by building broadcasting transmitters, providing for the carriage of services on cable systems, or providing for direct reception by satellite. In the case of radio, the vast majority of listeners actually listen to off-air signals from transmitters. Although there is some listening to radio on cable, radio is a portable medium, being listened to extensively in automobiles and on portable receivers.

In the case of television, however, two-thirds of viewing is by cable received services, with most of the remaining population receiving service off-air. Only about two percent of the population own satellite dishes and can receive signals directly by satellite.

As the Task Force noted, in recent years progress has been made (and continues) in extending public broadcasting services to official-language minorities across Canada. For example, the CBC has recently loaned Yellowknife and Whitehorse two satellite dishes, which will make the Radio-Canada television service available in these cities for the first time.

Nevertheless there are still important gaps. The French-language stereo radio service is not available off-air to 24 percent of French-speaking Canadians, while the English stereo service is not available to 28 percent of English-speaking Canadians. There are communities in British Columbia with more than 500 French-speaking persons who do not receive the CBC's French television service because the necessary ground transmitters are lacking. Anglophones living in Quebec's Eastern Townships are deprived of CBC television for the same reason.

There are also a significant number of cases where, even though CBC is available, it originates from a service that is not fully satisfactory because the service does not reflect the special needs of the regions involved. For example, francophones who live in the northern parts of B.C. and the prairie provinces receive the French-language Montreal television signal, which they consider to be inappropriate. Similarly, English-speaking witnesses from Western Quebec pointed out that they receive the English-language Ottawa station which of course does not concentrate on Quebec news.

In Chapter 2 we examined the availability of the CBC's radio services (section 2.3.2) and recommended that the capital budgets of the CBC should be sufficient in the future to allow the Corporation to extend the off-air transmission of its French and English stereo radio services in both French and English. We noted specifically that the CBC has a responsibility to provide its services as widely as possible, including service to official-language minority communities.

The Committee notes that the recently released CRTC decision on the renewal of the CBC's network radio services deals extensively with the issue of increasing the availability of CBC radio services. As the CRTC notes, substantial progress has been made since 1979 in extending coverage; however, a substantial amount remains to be done. We share the

Commission's concern that the CBC's five-year plan contains no capital funds for the extension of service.

The Committee supports the intent of the CRTC's recommendations concerning the extension of both the AM and stereo services of the CBC in both French and English. We have seen no reason to change what the *Broadcasting Act* says about making the CBC's services available to Canadians and, while the pace at which this can be done will inevitably be affected by fiscal restraint, the task itself must not be abandoned.

While service by cable is not a satisfactory alternative to off-air service, especially for radio, at least the four CBC radio signals should be made available on cable systems that offer audio services to their subscribers. The CRTC currently requires large cable companies (Class I licensees) to carry the CBC stereo services. Those medium to small-sized cable companies (Class II systems) that choose to carry any audio services must carry at least one English and one French CBC radio service, though not necessarily the stereo services. However, the Commission does encourage these companies, and operators in remote and underserved areas, to carry the stereo services as well.

The Committee asked the CBC to provide information on the number of cabled households in Canada that have access to each of the radio services of the CBC on their cable systems. The figures below are based on a September, 1987 survey of all Canadian cable companies, carried out by Mediastats.

Table 6.1 Cable Carriage of CBC Radio Services, September, 1987

	Households	%
Cabled households in Canada	6,145,000	100
Cabled households that have access to:		
CBC English Stereo Service	5,328,000	87
CBC English Mono Service	1,975,000	32
CBC French Stereo Service	2,278,000	37
CBC French Mono Service	3,232,000	53

Source: CBC Research (Mediastats).

According to the CRTC the carriage of CBC's stereo services on cable at present increases their potential availability to 86 percent of English-speaking and 83 percent of French-speaking Canadians. In this Report [Chapter 2, Recommendation 2] we recommend that the CRTC amend its cable regulations to require that all Class I cable systems and those Class II systems that offer audio services make the French and English mono and stereo CBC services available to their subscribers, regardless of whether the signals are available from local or regional transmitters, or by satellite. The Committee believes that this regulation would be consistent with the provision in Section 3 of the *Broadcasting Act* that "paramount consideration shall be given to the objectives of the national broadcasting service", and that the result would be to provide improved service to official language minority communities.

We note, however, that the benefits of making this change should not be overestimated. While most cable systems offer audio services, a relatively limited number of subscribers take advantage of the opportunity.

The Canadian Cable Television Association advised the Committee that a survey they carried out about two years ago indicated that only about four percent of cable subscribers had actually connected cable to their radio receivers. Nevertheless, we believe that members of official-language minority communities ought at least to have the opportunity to receive both CBC radio services in their own language by cable.

In the case of television broadcasting, as in radio, the CBC has suspended any further extension of its services, including extension to official-language minority communities which do not now receive CBC television service off-air in their own language. In its renewal of the CBC's English and French television network licences the CRTC noted that there are still many small communities in Canada which do not receive the national television service. There are, of course, official-language minority communities as well which either do not receive CBC television service in their own language or receive a CBC service that is considered to be inadequate, as noted above.

The Committee shares the view expressed by the CRTC in its licensing decision [CRTC Decision 87-140, 23 February, 1987] that efforts must continue to extend off-air service to smaller communities. This must include efforts to provide official-language minority communities with service in their own language, from an appropriate source; that is, one located in their geographic area. We note with interest the Commission's request that CBC carry out a study on the extension of its television services by August, 1988 (see CRTC Decision 87-140, p. 101). While the CRTC did not state explicitly that the CBC should address the extension of service to official-language minorities, we urge the CBC and the Commission to address this issue in connection with this special study.

Unlike radio, the carriage of public television signals on cable is a very useful alternative to off-air transmission, although cable reception does involve certain costs and many lower income Canadians do not subscribe. At present, two-thirds of Canadians use cable to receive television services. The requirements the CRTC makes for carriage of television services on cable are, therefore, of substantial importance as a means of making public television signals available to the public. When the CRTC revised its cable regulations in 1986 [Public Notice CRTC 1986-182] changes were made to take satellite delivery into account. Essentially the new regulations accorded priority carriage to the French-language and English-language CBC television services and similarly gave priority to the carriage of any provincial television service, even if those signals were available only by satellite. In the Committee's view this was a positive and appropriate change, reflecting both the evolving technologies of broadcast distribution and the priority that should be given to the carriage of public broadcasting services.

However, the Committee notes that the regulations do provide for the CRTC to exempt individual cable systems from these priority carriage rules by condition of licence. The Committee heard some complaints about the use the Commission has made of these provisions for exemption. For example, in Thunder Bay the Association des Francophones du Nord-ouest de l'Ontario complained that they are unable to receive TV Ontario's La Chaîne Française on the basic band of cable, that is channels 2 to 13. As a result, a converter is needed to receive the signal.

In the Thunder Bay situation the CRTC has exempted the local cable system from the cable regulation that would have accorded priority to carriage of La Chaîne Française. Part of the reason the CRTC gave for doing so was that Thunder Bay is not a designated francophone area under Ontario's Bill 8, the *French Language Services Act*. Under that Act, provincial government services in French are guaranteed where there are either 5,000 or more francophones or where they represent 10 percent of the population. The CRTC cannot, however, base its regulatory practices on provincial laws but must base them on the federal *Broadcasting Act*.

The Committee notes that the Thunder Bay cable system carries a cable advertising channel and the Canadian Home Shopping Network — both non-programming services — as part of its basic band service on channels 2 to 13.

While the Committee does not object to the provision allowing the CRTC to exempt individual cable systems from the regulations, we believe that such exemptions should not be granted when the result is that a significant number of members of an official language minority, whether English or French, will receive reduced service in their language. The Committee is particularly concerned in the Thunder Bay case that carriage of non-programming services seems to be receiving priority over carriage of a Canadian programming service. In our Sixth Report we recommended that cable systems be permitted to distribute or originate non-programming services, but only if priority is given to the carriage of Canadian programming services.

Recommendation 116

> The CRTC should not exempt cable systems from its cable regulations related to the carriage of public broadcasting services when the result is reduced availability of public broadcasting services in their own language to significant official language minority communities. Furthermore, the CRTC should not permit the carriage of non-programming services to receive priority over carriage of Canadian programming services whose carriage is required under the regulations.

6.2.2 Programming Choice

While access to public broadcasting services is of basic importance, Canada has a mixed public and private broadcasting system. For both English-speaking and French-speaking Canadians, access to private broadcasting services is very important, accounting for the majority of viewing in both languages. At present, however, the situation is substantially better for anglophone than for francophone minorities.

Most Quebec anglophones live in Montreal and receive a wide variety of programming in their own language. In fact, in the CBC's brief to the Task Force [CBC, *Let's Do It*, November, 1985, p. 6] the Corporation stated that for the Montreal population there were more channels in English than in French, and that 60 percent of the programming available was in English. Even for anglophone Quebecers outside Montreal, a substantial range of programming choices is available. In part this reflects the fact that seven of the eight television channels provided by Cancom, the satellite service licensed to serve remote and underserved communities, are in English. For minority francophone populations, however, there is typically far less choice available, particularly in Western Canada.

It is, of course, not surprising that the provision of services in French using off-air transmitters is heavily concentrated around Quebec. Reflecting this reality, there are no private French-language television stations outside Quebec. However, the arrival of satellite distribution has created the potential for a wider variety of broadcasting services to be provided to French-speaking Canadians living outside Quebec.

In November, 1979 when then Communications Minister David MacDonald asked the CRTC to move quickly to facilitate the use of satellite technology to provide a greater variety of broadcasting services to Canadians in remote and underserved communities, he stated that "it is now technically feasible to provide all Canadians with a variety of broadcast services in the English and French languages". In stating the government's objectives for using satellite delivery he included the concern "To extend services to inadequately served areas of the country, in both official languages...".

In October of 1980, after receiving a task force report on service to underserved communities, the CRTC issued a call for applications to provide service. When the Cancom service was licenced in April, 1981 its service included three English television signals and one French. At that time, the Commission's decision provided for the four channels to be sold as a package at $4.00 per month per subscriber. Since that time, however, Cancom's services have been "unbundled" and some additional English-language U.S. channels have been added. When the signals were unbundled, carriage of the French station declined. At present Cancom's French signal, the Montreal TVA affiliate CFTM, is available to only 63,103 subscribers in 100 communities outside Quebec; Cancom reports that it is losing about $1 million a year by carrying the signal.

When pay television services were originally licensed in 1982 the CRTC also insisted that the licensed French-language service be made available across Canada. However, because this proved not to be commercially viable, the existing French-language movie channel, Super-Écran, is now carried only on the eastern beam of the Anik C satellite and is not available in British Columbia, Alberta, Saskatchewan or part of Manitoba.

Since the original Cancom decision in 1981 and the pay television decision of 1982, there have been important developments in French-language broadcasting. A third network of off-air stations, Quatre Saisons, was licensed in 1985, while more recently the CRTC licensed five new French-language specialty service channels, including sports and music channels, a channel for children and adolescents, an international channel, and a weather channel.

The Quatre Saisons service, like that of Super-Écran, is available only on the eastern beam of Anik C. The new French-language specialty channels, with the possible exception of TV-5, the international programming channel, will also be available off the satellite only in Eastern Canada. In the case of the provincial government services — Radio-Québec and TV Ontario's La Chaîne Française — the services are intended only for people in Quebec and Ontario and not surprisingly are carried only in Eastern Canada.

The Committee is aware that there are other factors besides availability by satellite which affect the provision of French-language services to francophone minorities across Canada. These include whether or not the signals are scrambled, their cost, and whether the CRTC requires their carriage by cable system operators. It is now the case that the whole new generation of French-language channels appears likely to be even technically unavailable to francophone minority communities in the three western-most provinces and part of Manitoba. This does not mean, of course, that these services will be available to minority communities in the eastern half of the country but simply that they will at least be there to be carried on cable systems, subject to the policies of the CRTC and to the decisions of cable system operators.

When the CRTC licensed the new specialty services referred to above, the Commission stated that it would require their carriage on the basic service of cable systems serving primarily francophone communities. Where French-speaking Canadians are in a minority it is not certain that these new services will even be available on a discretionary basis, which means an extra charge for those subscribers willing to pay.

The Committee, like the Task Force before it, heard many complaints about the lack of access of francophone minorities to a reasonable variety of broadcast services. For example, the Franco-Manitoban society drew attention to the fact that the expansion of a Winnipeg cable system from 13 to 21 channels created for the CRTC a unique opportunity to remedy the lack of choice for francophones in the minority.

They wanted at least a second French channel. [*Minutes*, 45:8.] Similarly, l'Association Culturelle Franco-canadienne de la Saskatchewan complained that almost all francophones in the province had access to only the CBC's French television service. The Fédération Acadienne de la Nouvelle-Écosse stated that "the inadequacy of French-language radio and television broadcasting services in the province ... has contributed historically, and continues to contribute, to the assimilation of Acadians in this province". [*Minutes*, 47:48.]

The Committee's Sixth Report recommended that a new broadcasting act should state the objective that the Canadian broadcasting system should meet the special needs of each geographic region and of both official language groups. At present the needs of minority francophone communities across Canada are not being adequately met. In a broadcasting world characterized by rapidly expanding choice, they are not benefitting from even a reasonable minimum level of service. This is an issue that must be addressed on an urgent basis.

There are two aspects of public policy that require review. First, it is quite clear that, as the Task Force concluded

> From a purely commercial perspective ... carriage of a balanced menu of French-language services to underserved communities is not an attractive proposition. [*Report*, p. 610.]

The Committee believes that this requires a measure of direct public support. Satellites provide a relatively low-cost means of expanding service to francophone minorities and the necessary support ought to be provided. The most important services to support are probably the TVA and Quatre Saisons signals which account for the bulk of viewing in Quebec, with secondary consideration given to other services. If the delivery of the TVA signal is to be subsidized it may be preferable to make it available unscrambled, rather than in a scrambled form through Cancom.

Recommendation 117

> The Minister of Communications and the Government should establish a program of direct support to make a reasonable variety of French-language broadcasting signals available by satellite across the country.

The Committee is aware, however, that there is also a need for the CRTC to review its policies concerning the carriage of French-language services, including both conventional broadcasting signals and specialty services. In our Sixth Report we recommended that priority be given to the carriage of French-language services where operators serve "primarily" francophone subscribers. [Sixth Report, Recommendation 58, 36:7B.] However, this recommendation does not completely address the requirement to make proper provision for the needs of francophone Canadians where they are in a minority.

The key issue is the carriage requirements established for cable television systems. There has been and continues to be an enormous expansion in the channel capacity of cable systems. As of October 1987, Mediastats data indicate that 93 percent of all cable subscribers are in systems able to provide more than 21 channels. The result is clearly an opportunity to serve minorities better, without sacrificing either existing service to majority populations or future expansion.

The Committee believes two aspects of policy should be examined. First, should the carriage priorities for cable be revised to give priority to a minimum number of French services, even if they are available only by satellite, rather than off-air? Provision would, of course, continue to be made for exemptions where appropriate. Second, there is a need for a more explicit policy on the overall requirements for carriage of French services in systems where francophones are in a minority. Does it make sense, for example, that in a system serving a 51 percent francophone population, priority should be given to francophone services, as the Committee recommended, and that all recently licensed francophone specialty channels should be on basic service, while in a system in which one-third of subscribers are francophone none of these channels may be available? Is it not reasonable that in a system serving one-third French-speaking Canadians, one-third of the channels offered should be in French?

While we have concentrated here on the need for a review by the CRTC of its cable carriage regulations affecting the provision of French-language broadcasting services in systems serving significant francophone minorities, any new CRTC policy would, of course, apply equally to cable systems serving anglophone minorities. As part of the process of developing such a policy, the Commission should hold a public hearing. This should result in a CRTC policy statement on services to official language minorities.

We recognize that any revised CRTC policy initiatives should be developed to complement the proposal for direct public support of satellite distribution costs.

Recommendation 118

> In conjunction with the provision of selective government financial assistance toward the cost of satellite distribution, the CRTC should review its policies on the carriage of broadcasting services on cable for the purpose of establishing a reasonable level of choice for official language minority communities. As part of the review process, the Commission should hold a public hearing and should carry out any research that may be helpful. The result should be incorporated into a CRTC policy statement on service to official language minorities.

6.2.3 Programming Which Adequately Reflects Minority Language Communities

> ...the Task Force received more than a dozen briefs from francophone groups outside Quebec calling for an end to what they saw as Radio-Canada's almost total disregard of the regions. Brief after brief described Radio-Canada as being dominated by Montreal in programming, resource allocation and decision-making. Citing audience surveys showing a low proportion of francophones tuned to Radio-Canada in the regions, some groups questioned the relevance of Radio-Canada's present service outside Quebec.
>
> Francophone minorities want Radio-Canada to do more to develop talent in the regions rather than importing talent from Quebec. Only with the development of local broadcasters and performers, they argue, can distinctive regional cultures be reflected locally and to the nation. [*Report*, p. 530.]

According to our witnesses the situation seems to have changed somewhat since these words were written, at least with respect to the Atlantic provinces and Ontario. Witnesses from the Société Nationale des Acadiens remarked that they were increasingly satisfied with Radio-Canada's Atlantic services. Since 1985 French-language services in Ontario have been organized in such a way as to allow for regional input. Although no witness thought this was sufficient, at least some attention has been paid to the issue. This does not seem to be the case in any province west of Ontario. For these provinces the Task Force's remarks still hold.

We should stress, however, that all our witnesses referred to recent CBC budget cuts, arguing that they have resulted in cuts of whatever regional programming previously existed. Most witnesses also raised the issue of the importance of using local people on the air.

We note that the 1987 CRTC decision renewing CBC television network licences criticized the CBC's performance with respect to programming for francophone minorities.

> The Commission firmly believes that francophones living outside Quebec deserve to receive programming from the national broadcasting service with which they can identify, whether it be through the inclusion of news items about their communities, editorial content, story-lines, or all three. [CRTC, *Current Realities, Future Challenges*, Decision CRTC 87-140, 23 February 1987, p. 51.]

The Commission asked the CBC to undertake a study into the programming needs of francophones outside Quebec, and submit a report and action plan by February 1988. [CRTC, *Current Realities, Future Challenges*, p. 99.]

More recently we note that the Commission's renewal of the CBC's radio network licences also asks the CBC to study the broadcasting needs of francophones outside Quebec and to submit a report and plan of action within eighteen months of the decision. [CRTC, *Maintaining a Distinctive High Quality CBC Radio Service*, Decision CRTC 88-181, 30 March, 1988.]

The Committee shares the concerns raised by the CRTC, with the proviso that the CBC must be expected to provide equally adequate service to English-speaking Canadians where they are a minority.

Recommendation 119

The necessary measures should be taken by the CRTC and the CBC itself to provide improved CBC service to both anglophone and francophone minority communities across Canada.

6.2.4 Community Broadcasting

The Task Force did not accept the argument for strengthened CBC regional services, although it was made by many groups. In response to the claims of official language minorities, the Task Force proposed that these groups look to community broadcasting. We have already expressed our views about the expectations of this sector (section 2.6). Community broadcasting should not and cannot realistically be made to bear the entire burden of serving "the special needs of each geographic region and both official language groups". [Sixth Report, Recommendation 22, 36:35.]

However, it is true, as the Task Force points out, that community radio in particular has helped serve the needs of francophone minority communities. In this regard the Task Force recommended that the CBC provide access to its transmitters to local official-language minority broadcasting organizations [*Report*, Recommendation 19.7, p. 504.] The President of the CBC, Pierre Juneau, has publicly stated that the Corporation is prepared to do this:

> We share our air time where a regional French-language station does not adequately meet the specific needs of small communities. In the case of Penetanguishene ... the Toronto station, CJBC, produced one-third of all French radio programming for the region. Since that programming was aimed first of all at the greater Toronto area, CJBC did not fully meet the needs of the small communities it also served, such as Penetang. Even though it is a very active community, Penetang has no newspaper. So it was from there that we received the first request to share our airwaves. However, we are not prepared to apply this policy in all centres. In some places, such as St. Boniface and Vancouver, we broadcast programs on local events five or six hours a day. In those places, we could not let a community radio station replace Radio-Canada programming with its own. [*Language and Society*, "The CBC and Minority Concerns: An Interview with Pierre Juneau", No. 22, Spring 1988, p. 13.]

Recommendation 120

We endorse the Task Force recommendation that the CBC should provide access, when circumstances permit, to official-language-minority community broadcasters.

6.2.5 Concluding Comments

Traditionally the discussion of minority language rights has concentrated on the right of minorities to education in their own language. Broadcasting services, however, have become as important as educational services, and have a role in everyday life that makes them of fundamental importance to the survival of official language minority communities. The survival of such communities will depend to a significant degree on the availability of adequate radio and television programs in the language of the minority.

At present, some communities across Canada are not well served. Our hearings made it clear that, under pressure of budget reductions, the CBC has cut back its already limited local programming in these communities. At the same time, while the overall range of radio and television services available has been expanding rapidly, the availability of services in French expanded scarcely at all outside Quebec. The Committee believes that action must be taken to address this issue.

6.3 Multicultural Minorities

6.3.1 Introduction

One in four Canadians identify themselves as having a cultural background other than French or English. The Canadian *Charter of Rights and Freedoms* recognizes that we are a nation drawn from many cultures, strengthened by our diversity. It is therefore appropriate that broadcasting policy embrace the principle of multiculturalism, and that the broadcasting system reflect our cultural and linguistic diversity. In our Sixth Report we accepted the recommendation of the Task Force that multiculturalism be given a legislative foundation in the broadcasting act. Recommendation 24 would require programming to "provide a balanced representation of Canadian society, reflecting its multicultural and bilingual realities..." In this report we deal with the implications of this recommendation.

6.3.2 Mainstream Broadcasting

The Task Force emphasized the importance of ensuring that the principles of multiculturalism are incorporated into the programming decisions of public and private broadcasters, and stressed the need to increase the number of programs which depict Canadians or reflect the points of view of Canadians whose origins are not French or English. It pointed to the concerns of those who argue that conventional broadcasters are too likely to characterize members of minority groups in stereotypical ways, and to report events involving the misdeeds of individuals in such a way as to implicate a minority community. As the most practical way to produce more balanced programming and to sensitize the industry to stereotyping, the Task Force proposed that broadcasters be required to set up affirmative action programs.

The Committee endorses the Task Force analysis. While we acknowledge the importance of services directed primarily to minority groups, we feel that attention must be paid to implementing multiculturalism in mainstream broadcasting. The groups who came before us and the briefs we received indicate that there have been no significant changes in the industry which would support a different approach. With respect to affirmative action in particular, we would point out that in our sixth report we recommended that the broadcasting act include provisions designed to increase significantly the number of women and minority groups at all levels in the industry. [Sixth Report, Recommendation 72, 36:92.]

THE CBC

In support of its licence renewal application in June 1986, the CBC was asked whether it had plans to provide ethnic programming and whether it had an ethnic policy. The reply stated that the Corporation's commitment to multiculturalism was pervasive, and it listed English and French network programs which it felt gave expression to Canada's multicultural aspect. In effect, the CBC appeared to say that it did not plan to do anything more than it had been doing. This response is consistent with a short policy statement on Multicultural Broadcasting which the Corporation issued in 1984.

> ...by reason of the ethnic diversity of the audience, the Corporation has long practised a policy of cultural pluralism in its programming, and intends to continue to reflect the multicultural riches and multiracial characteristics of Canadian society in keeping with the Corporation's obligation... . Schedule planners and program staff are expected to demonstrate continuing awareness of and sensitivity to this aspect of the CBC role.

In general our witnesses acknowledged the important role the CBC has played in this area, especially in comparison to private broadcasters; however, it was felt that the CBC could do much more. For example, the Multiculturalism Association of the Greater Moncton Area remarked that the CBC "definitely [reflected] a lot of the different ethno-cultural groups in Canada in the arts and sciences and musical entertainment". But the Association added that, especially with respect to television, there was "definitely room for improvement". [*Minutes*, 48:47.] The Manitoba Intercultural Council brought to our attention a study on the portrayal of visible minorities in the media commissioned for the Council and published in 1986. The Council remarked that while the study indicated that the CBC performed better than CTV, the CBC's own practices were "very poor". The Council added that they were not at all happy with the CBC. [*Minutes*, 45:99.] The CRTC is clearly of the same opinion. In its licence renewal decision of February 1987, the Commission set out the following expectations:

> That the CBC increase representation of multicultural minorities in the mainstream programming of both the English and French television networks in a manner that reflects realistically their participation in Canadian society, and that will contribute to eliminating negative stereotypes.
>
> That the CBC submit a report at the end of the first two years of the licence term on the initiatives and actions taken to achieve this objective.

We are pleased that the CBC has been made formally accountable for its progress in implementing multiculturalism. In addition, we think that the Corporation should have a policy in place which is more detailed than the one set out in 1984. Under the new *Employment Equity Act* the CBC is required to prepare a plan and a timetable for bringing in an employment equity program. It is not unreasonable to ask the Corporation to have a similar kind of plan with respect to programming content. Indeed, the two are related; the greater the number of individuals hired, the larger the pool of creative people able to participate in the production of multicultural programming.

Recommendation 121

> The CBC should, at regular intervals, prepare a plan setting out the goals the Corporation intends to achieve with respect to the representation and fair portrayal of multicultural minorities on its English and French radio and television stations and networks. A timetable for the implementation of these goals should also be made available. The public should have access to this plan.

PRIVATE BROADCASTERS

Few of our witnesses praised the role of private broadcasters in reflecting Canada's cultural diversity. However, some testimony indicated that certain broadcasters are better than others in this regard. In Quebec, for example, it was suggested that in its short history Quatre Saisons had done more for ethnic participation in programming than the veterans, Radio-Canada and TVA.

The Task Force regarded winning the commitment of broadcasters to the principles of multiculturalism as the most important factor in implementing multicultural policies in the industry. In 1985 the Minister of State for Multiculturalism had proposed the creation of an advisory committee made up of representatives of multicultural groups and the industry to facilitate such a process. Among other things the National Committee on Cultural Diversity in Broadcasting would have served as a forum for airing concerns regarding depiction and representation, and would have enabled minority groups and broadcasters to talk to one another. The proposal was supported by the Minister of Communications and the CRTC. The Task Force endorsed the creation of this committee.

However, this initiative has not been pursued. Given our testimony, we see a need for some means of facilitating discussion and cooperation among the relevant parties.

Recently the Multiculturalism Sector of the Department of the Secretary of State sponsored a forum on multicultural broadcasting, designed to bring together a number of interested groups and individuals, including members of Parliament, regulators, producers, advertisers and broadcasters. The purpose of the forum was to discuss what is actually being done in mainstream programming, and what realistically could be done to encourage further action. A successful program of this kind, repeated at regular intervals, could serve the same purpose as the national committee proposed by the Task Force.

Recommendation 122

> We encourage the Department of the Secretary of State in its efforts to promote the discussion and cooperation necessary to implement multiculturalism in mainstream broadcasting.

The Task Force made no recommendations for the regulation of multicultural programming in the private sector. In its policy statement of 1985 the CRTC stated that it lacked both the funds and the legislative mandate to regulate balance, fair portrayal or stereotyping. The Commission suggested that these were areas for self-regulation, and indicated that the Canadian Association of Broadcasters had declared their intention to prepare a set of guidelines for members regarding program content directed towards ethnic communities. [CRTC, Public Notice 1985-139, *A Broadcasting Policy Reflecting Canada's Linguistic and Cultural Diversity.*]

In its submission to this Committee in October 1987, the CAB stated that it was actively promoting awareness of multicultural issues among its members, and was encouraging broadcasters to include multicultural programming in their schedules. The CAB indicated that it would develop guidelines relating to the portrayal of ethnic and visible minority groups, and that it was also preparing a reference book on multicultural programming and related issues for its members.

We have recommended that the implementation of multiculturalism in broadcasting be given a legislative basis. This would ensure that the CRTC has the jurisdiction to regulate. We note that the Commission has already made adherence to CAB guidelines on sex-role stereotyping a condition of licence. If the forthcoming CAB guidelines were acceptable to minority groups, we think this would also be an appropriate regulatory mechanism for promoting fair and representative portrayal.

Recommendation 123

> The CRTC should encourage the Canadian Association of Broadcasters to develop an acceptable set of guidelines relating to the representation, fair portrayal and stereotyping of minorities as soon as possible. The CRTC should ensure adherence to these guidelines by means of conditions of licence, where appropriate.

6.3.3 Services Directed to Cultural Minorities

In response to initiatives originating in multicultural communities, there are a number of broadcasting services directed specifically to these communities. For immigrants, these services are a bridge to the future, — providing an opportunity to learn about Canada, and its languages. For the second generation, these services help individuals preserve their cultural and linguistic heritage. They may serve to link ethnocultural communities across Canada, and to encourage cultural exchange. They also allow members of minority communities to gain experience in the broadcasting industry.

Most of these services are provided by private broadcasters. At present eight radio stations across Canada and one TV station based in Toronto are licensed as ethnic stations, providing third-language programs and programs in English or French which are specifically directed to ethnic audiences. A regional pay-TV network in British Columbia has a mandate to provide services to a number of groups in that province. Two specialty service networks, Chinavision and Telelatino, are licenced to serve Chinese, Italian and Spanish speaking communities throughout Canada. In addition, eight conventional television stations and about 60 conventional radio stations include some ethnocultural programming in their schedules.

Cable operators are also instrumental in airing programs produced by minority communities via the community channel. In Vancouver and Montreal there are cable channels devoted exclusively to such programming.

All these services are regulated by the policies set out in the CRTC statement of 1985. The Task Force implicitly endorsed these policies by choosing to make recommendations on what it considered to be minor matters: the facilitation of brokerage, and the reduction of the Canadian content requirement for ethnocultural broadcasters. However, we believe these issues are of more than passing concern.

6.3.4 Brokerage

Brokerage involves the purchase of blocks of time from radio or television stations. At stake are rights to show programs chosen by the buyer in the purchased time slot and to retain advertising revenues. This practice was supported by the CRTC in its policy statement of 1985 as a means of making ethnocultural programs more available, and to stimulate the efforts of independent producers in this area. The Task Force also endorsed the practice, but felt that its potential effects were limited by the *Broadcasting Act*, which requires licencees (broadcasters) to be responsible for all programs on their system. The Task Force therefore recommended that the CRTC create a special class of licence for minority groups engaged in brokering. However, as a consequence of this recommendation broadcasters would apparently be relieved of any responsibility for programs shown in the purchased period. This is a solution which the CRTC does not support. Nor would it be consistent with statements in our Sixth Report [section 7.3 and Recommendations 7 and 50, 36:20 and 71-73.]

In its 1985 policy statement the CRTC proposed that the Canadian Association of Broadcasters and the Canadian Association of Ethnic Broadcasters consult with interested parties and develop an industry code for brokerage. The Code was to set out clearly defined guidelines for the production of quality programs to be offered for brokerage. It appears that this process was not successful. As a next step the CRTC will issue a set of criteria designed to be the basis of a code. The Commission still expects the full arrangement to be worked out by the industry. We support the Commission's efforts and hope that all parties will work together to resolve this issue as soon as possible.

Recommendation 124

> The Committee rejects the Task Force recommendation to license groups who are not broadcasters for the purpose of brokerage. The

Committee supports the development of an industry code for brokerage, as currently proposed by the CRTC.

6.3.5 Canadian Content and Other Regulatory Issues

The Task Force recommended that Canadian content rules for ethnocultural broadcasting be reduced to allow broadcasters to use as much revenue-generating material as possible. The Task Force took this position because it felt that Canadian creative resources were scarce, studio facilities were at a premium, production costs were high, and the potential market was relatively limited. In fact the Task Force was endorsing the CRTC position proposed in its 1985 policy statement and put into effect the following year. The television regulations were revised in 1986 to allow the Commission to reduce overall Canadian content requirements for off-air ethnic TV stations below the 60 percent level other stations are required to meet.

Radio regulations also permit reductions of the Canadian ethnic music requirement from 30 percent to a minimum of seven percent. In the case of discretionary pay or specialty service channels, the CRTC had been allowing such services to operate without meeting the 60 percent Canadian content requirement since 1982.

The Committee does not object to this recommendation in principle. In our sixth report we proposed that ethnic services, among others, be exempted where necessary from the requirement that programming be predominantly Canadian, and that a lower requirement for pay and specialty services carried on a discretionary basis be accepted. [Sixth Report, Recommendations 29 and 30.] However, when we examine the licensing history of many of the ethnocultural services we cannot help but be concerned about how the exemption provisions have been used.

TV broadcasters have appeared before the CRTC with promises they knew the Commission wanted to hear: promises with respect to Canadian content overall, in the evening and in prime time; commitments to futher program research and development or to serve a variety of multicultural communities. In case after case broadcasters have asked to be relieved of these same responsibilities. Too often they have succeeded. In certain cases ethnocultural broadcasters have become another source of American programming, a source of programming from other countries to serve fewer minority groups than promised, or they have failed to provide any significant amount of Canadian programming despite their promises. Also, the Canadian Association of Broadcasters contends that some of these broadcasters may adversely affect the revenues of other broadcasters. The Committee does not think this type of service adequately satisfies the needs which ethnocultural broadcasting should address.

As noted in our Sixth Report, this problem of unfulfilled promises is not confined to the area of ethnocultural broadcasting. It arises partly because the CRTC does not have the research capacity necessary to assess the commitments made by applicants. We have made recommendations designed to improve this. [Sixth Report, Recommendations 83 and 84.] In part it is a problem of compliance, which we also dealt with in section 8.5.5 of our earlier report. In addition, as a result of the lack of data in this area, we feel that there has been little attempt on the part of the CRTC to determine how best to structure ethnocultural services in order to maximize their Canadian content over time and minimize any adverse consequences for conventional broadcasters. The Commission must address these issues.

The need for a well-researched determination of what licence holders and applicants can actually deliver is made more urgent by the unresolved question of whether to license a national satellite-to-cable network to provide ethnic programming as part of basic cable television service. In its recent announcement and decisions on specialty and pay television services the CRTC denied two applications from existing ethnic broadcasters to operate as national satellite services to be carried on basic cable. The Commission did, however, reaffirm its support for the concept of such a service. [CRTC Public Notice 1987-260 and Decision 87-906, Nov. 30, 1987.] If this kind of service is licensed it is bound to have an economic impact on existing ethnic broadcasters, fragmenting the available revenues and audience. It might also affect the willingness of cable operators to fund ethnic programming through the community or designated multicultural channels they provide. In addition, one of our witnesses, the recently formed Canadian Council of Ethnic Broadcasting, expressed the opinion that such a service should be truly national, and not just a local service beamed out across Canada from Toronto or some other metropolitan centre.

The Committee believes that before licensing any new national satellite-to-cable ethnocultural network, the CRTC should commission a comprehensive analytical study of ethnocultural broadcasting. The study should include an examination of past experience in the development of ethnic programming and ethnic broadcasting services, including conventional off-air stations, discretionary satellite-to-cable channels and special cable channels serving the ethnocultural community. As part of the study the financial position of existing services should be examined, as well as the nature of the programming they provide, the language or languages in which they broadcast, their programming expenditures and the audiences they attract to the various categories of programming they offer. Based on this research, the study should examine the potential impact of licensing a new satellite network, as well as considering the impact of ethnic broadcasting on other broadcasters.

In order to identify the structure of services most likely to meet the needs of Canada's ethnic minorities, including their need for Canadian-originated programming, the study should examine licensing options available to the Commission. The relative roles of existing ethnic services, including off-air, specialty and pay services, and special cable channels, should be examined, with particular attention to the extent to which they compete with one another and the impact such competition may have on their ability to contribute to achieving the goals established by Parliament for the Canadian broadcasting system.

Recommendation 125

> Before licensing any new national satellite network providing ethnocultural programming, the CRTC should commission a comprehensive study of ethnocultural broadcasting. The scope of the study should include an examination of existing ethnic stations and networks, consideration of options for and the impact of a new national ethnic channel on existing and proposed ethnic services and on other non-ethnic broadcasters. The emphasis should be on economic feasibility and on determining the licensing policy and broadcasting structure most likely to maximize the contribution ethnic services can make to achieving the goals of Canadian broadcasting, including the provision of Canadian programming for ethnocultural groups in Canada.

A second issue brought to our attention by witnesses is the access of minority groups to the cable channel. This issue was raised by the CRTC in its 1985 statement. The Commission stated that it would examine the matter.

Recommendation 126

> The Committee concurs with the CRTC's plan to review the issue of access by ethnocultural minority groups to community broadcasting outlets and encourages the Commission to ensure fair and reasonable access.

6.4 Services to the Physically Disabled

6.4.1 Introduction

The Caplan-Sauvageau Task Force recommended that, at the time of licence renewal, the CRTC should take into consideration the licensee's willingness to increase the number of programs with closed captioning for the hearing-impaired. [*Report*, Recommendation 6.15, p. 155.] The Committee, in its sixth report, felt that the voluntary approach had not been effective. Mindful, however, of financial constraints, it did not accept the proposal that all programming be captioned immediately. Instead, the Committee recommended that the new broadcasting act should specifically bind the CRTC to ensure that, within five years of the passage of new broadcasting legislation, at least 50 percent of national television programming on conventional networks will be available with closed captioning or other means whereby the programs can be understood by the hearing-impaired; and that other television broadcasters provide a significant and reasonable proportion of their programming with closed captions or comparable means to provide access to the hearing-impaired. [Sixth Report, Recommendation 33.]

In connection with the programming goals of the Canadian broadcasting system, the Committee also recommended that "the programming carried by the system should provide a balanced representation of Canadian society, reflecting ... the composition of its population with respect to ... mental and physical handicaps". [Sixth Report, Recommendation 24.]

Neither the Task Force nor the Committee in its earlier reports specifically dealt with reading or recording services for the blind, or other services for needs of the physically or mentally disabled.

During its inquiry into broadcasting policy, the Committee heard from a number of hearing-impaired groups across the country. Most witnesses devoted their representations to the need for more closed captioning. While they appreciated the Committee's comments in this regard, they urged the Committee to go further, and argued the need for captioning of all programs as soon as possible. The Committee also heard from the Canadian Captioning Development Agency Inc., the non-profit agency that provides closed captioning services to broadcasters, and from the Ontario Closed Caption Consumers. Broadcasters and agencies such as the NFB were asked about their efforts and policies on closed captioning. The main reason for not doing more captioning was cost, although it was noted that the technology for closed captioning only exists in a few centres.

It should also be noted that questions relating to the portrayal, treatment, job opportunities, participation and accessibility of disabled people to the media are currently the subject of a major study by the Standing Committee on the Status of Disabled Persons.

6.4.2 Closed Captioning and Signing for the Hearing-Impaired

Television is a pervasive influence in modern society but it is primarily a visual medium. Deaf and hearing-impaired people are often denied access to television simply because they cannot hear or understand what is being said. There are three devices to remedy this: sign interpretation, open captioning and closed captioning. Simply put, captions are the subtitled dialogue portion of the TV program, available either to selected viewers through a special decoding device (closed), or to all viewers as subtitles along the bottom of the screen (open). Closed captioning is the preferred mode, largely because it is the least disruptive to other viewers.

The deaf and hearing-impaired community in Canada is very frustrated that more closed captioning is not available; that even when the American version of a television show is captioned, often the one broadcast in Canada is not; and that problems are caused by the policy of simultaneous substitution. Hearing-impaired groups stress the importance of having news programs (both national and local) captioned, as well as current affairs shows such as "Canada AM" and "The Journal". Several witnesses made the point that their needs are ignored with respect to such things as weather warnings or other emergency situations. An example of the frustration felt by hearing-impaired people was the lack of captioning of the Calgary Olympics. According to James D. Roots, executive director of the Canadian Association of the Deaf, "we could not share in either the heartbreak of Brian Orser's defeat or the ecstasy of Elizabeth Manley's victory...". [The Canadian Association of the Deaf, Letter, 16 March 1988 to the CRTC, p. 3.]

Although appreciative of the Committee's earlier recommendation, the hearing-impaired groups urged more action. They expressed concern that broadcasters would satisfy the 50 percent captioning requirement by acquiring foreign shows that are captioned, rather than captioning Canadian programs. The groups feel that they have a right to captioned programs, and urged that captioning become the norm, rather than the exception. As a public broadcaster the CBC, in particular, is seen as having a special obligation in this regard.

Captioning takes time and costs money, but most witnesses pointed out that it is only a small part of a production budget. The witnesses applauded the Committee for saying that captioning costs should be seen as part of the basic programming budget, rather than something added on as a special favour. The Canadian Captioning Development Agency pointed out that as technology and experience provide for improvements, costs are being reduced significantly. The cost of captioning is variable, depending on such factors as seasonal demand, volume and turnaround; it can be as low as $1,000 per hour, although the current average rate is about $1,500 to $1,600 per hour. Although encoding and shipping are additional costs, this represents a significant reduction from the average cost of $3,000 per hour as little as two years ago.

Several witnesses pointed out that captioning has value far beyond the deaf community. The Ontario Closed Caption Consumers observed that it appeals to a much broader audience, which includes hard-of-hearing people, senior citizens, parents of hearing-impaired children, people learning English as a second language and people with literacy problems. The Canadian Association of the Deaf provided the Committee with studies and proposals showing the role that captioning can play in combatting illiteracy. Captioning not only assists the full integration of the deaf and hearing-impaired into society, but also has other significant uses and benefits.

The Committee believes that the goal of 50 percent captioning within five years is a reasonable one. It is possible that certain broadcasters may even exceed this target, as a public service to their viewers, or because of the demands of the market. In any event, the television networks are currently providing only about 10 hours of captioned programming per week, so 50 percent will be a substantial increase. Once this target is achieved, new goals can be set.

The Committee wishes to clarify its earlier recommendation in one respect: the Committee recommended that 50 percent of national programming on conventional television networks be captioned, but it did not intend that this be achieved only by importing captioned programs from the United States. Canadian broadcasters also have a responsibility to caption their own programs. To avoid any uncertainty, we want to specify that at least 50 percent of network programming, generally, and at least 50 percent of Canadian programs carried on Canadian television networks should be captioned.

Recommendation 127

> Within five years, 50 percent of all network programming on conventional television networks, including 50 percent of Canadian programs, should be available with closed captioning.

Furthermore, we also encourage Canadian broadcasters to ensure that where a captioned version of an imported program is available, it should be broadcast. There is a great deal of frustration in the hearing-impaired community over the fact that often a captioned program is broadcast in the U.S., but because of the simultaneous substitution policy, the version available in Canada is uncaptioned. There is also some disruption caused by the fact that Canadian television regulations allow more commercials per hour than are allowed in the U.S., and this results in a lack of synchronization between the decoder and the television program. We hope that the broadcast industry will consult with hearing-impaired groups on this issue and attempt to resolve the problem. If no resolution is achieved, the CRTC should review the situation.

Telefilm and the National Film Board also have a role to play in increasing the amount of captioned programming. At present, few of the projects they fund or participate in are captioned; François Macerola of the NFB estimated that only between four and five percent of the Board's production is currently captioned. The Committee expects that captioning will become the rule rather than the exception in all publicly-funded productions, and feels that all broadcast programming funded with the participation of Telefilm and the NFB should be captioned. Again, we acknowledge the cost, but feel that it is a relatively small percentage of the total cost, as well as a valid public policy.

Recommendation 128

> Productions financed in whole or in part by Telefilm or the National Film Board for broadcast in Canada should be captioned.

The 50 percent requirement would only apply to conventional television networks. As pointed out in our Sixth Report, however, other broadcast undertakings should be expected to make a more significant contribution and provide a reasonable amount of programming for the hearing-impaired. Thus, pay and specialty services should ensure that more closed captioning is available.

As far as individual television stations are concerned, we wish to recognize the efforts of certain stations in providing services to the hearing-impaired. In St. John's, Newfoundland, for instance, there is a weekly half-hour news show for the hearing-impaired on the local CBC station. In Ottawa, CJOH has a sign language interpreter who translates the highlights at the end of the daily suppertime news show. Channel 10 in Montreal also has a program for the hearing-impaired on Saturday afternoons, and several community stations have provided special programs. There are other examples of broadcasters who have made attempts to provide services to the hearing-impaired segment of the population.

Yet, although the opportunities and resources obviously differ from station to station, more could be done. The Canadian Closed Captioning Development Agency is currently providing "Newscap" to individual stations at cost, which allows them to caption their local news shows for $750. The Committee believes that at the time of renewal of the licences of all individual television stations, the CRTC should give particular consideration to obtaining commitments for captioning of local programming, especially local news shows. In other words, the CRTC should ensure that more closed captioning or other services to the hearing-impaired are provided by individual stations by means of conditions of licence related to the resources available and general feasibility. To ensure that this issue is properly and fully dealt with on licence renewals, we suggest that the renewal application forms be amended to require such information.

Recommendation 129

> At the forthcoming hearings on renewal of licences for individual television stations, the CRTC should give particular attention to obtaining commitments for the captioning of local programming, particularly news shows, where it is feasible.

Closed captioning, as noted above, is primarily for the benefit of non-users, in the sense that the television screen does not have any captions on it, or anything to distract the viewer who does not require captioning. A decoder is necessary, however, and decoders are expensive, especially for a segment of the population that generally has lower incomes and other special expenses. They currently cost $379, and are only available from one retailer, Sears Canada. All of the decoders sold in Canada are manufactured in the United States and must be modified to meet CSA standards. The federal government recently removed tariff duties on decoders, but still levies federal sales tax of 12 percent. It was suggested by one of our witnesses that perhaps the cable industry could establish a program to lease decoders, as Rogers has done. We feel that such an initiative should be explored, as well as any other programs to assist persons to obtain access to decoders. In the U.S. the purchase of decoders is subsidized by the government, but there is no government assistance in Canada despite the higher prices of decoders here. We hope that governments and service organizations will consider programs to assist access to decoders.

Recommendation 130

> Efforts should be made to reduce the cost of decoders, and to increase their availability to low-income users.

6.4.3 Reading/Recording Services for the Visually-Impaired

Although closed captioning for the hearing-impaired is the most prominent issue, it is important to remember the need to improve access to broadcasting services for the visually-impaired.

One of the most promising developments is a radio reading service. Pioneered in the United States, such programs make print material such as newspapers and magazines available to the print-handicapped population. The service is designed for blind and visually-impaired persons, but also benefits others who are print-handicapped, such as those unable to handle normal print material, persons with reading dysfunctions, and those who are illiterate. The print-handicapped population of Canada, excluding the illiterate, is estimated at 283,000.

The only radio reading service currently operating in Canada is "La Magnétothèque" in Quebec. This non-profit organization provides four hours of programming per day, repeated continuously, and consisting of current news, editorials, international sports and entertainment. It does not duplicate the services of commercial radio, but rather supplements it by providing longer and more in-depth articles. Radio reading services provide the detail that persons with access to newspapers and magazines are able to obtain. It should be noted that an average newscast contains approximately 1,000 words, while an average newspaper contains about 5,000 words on the front page alone.

The service of "La Magnétothèque" is provided on FM through Videotron and other cable companies in the province of Quebec. It is apparently available to about 80 percent of the province's population; in addition, the cable companies have agreed to provide the service free of charge to eligible persons.

The Committee applauds the efforts of "La Magnétothèque", and hopes that similar radio reading services will be made available elsewhere in Canada. We understand that the Department of Communications is investigating the possibility of assisting the development of these services. While talking books are invaluable to the visually-impaired, radio reading services, by concentrating on news and current affairs, are equally important and will greatly assist in integrating many people into the mainstream of Canadian society.

It should also be noted that the Public Broadcasting System (PBS) in the United States is experimenting with "descriptive video" as another means of enhancing access to broadcasting for the visually-impaired. This is based upon techniques developed for theatre: special short-range FM devices give visually-impaired persons an audio narrative account of non-auditory aspects during performances. It is being adapted for television along the same lines as closed captioning.

7.0 PATTERNS OF OWNERSHIP IN BROADCASTING

7.1 Introduction

Rules governing ownership in Canadian broadcasting have traditionally been guided by two major considerations. First, they are designed to ensure effective Canadian ownership and control. Second, they are concerned with diversity of ownership.

Canadian ownership and control of broadcasting undertakings were deemed necessary to prevent the Canadian broadcasting system, particularly the English-language system, from becoming a part of the American system through mergers and takeovers. Policies to limit concentration of ownership are of particular interest at present because they have been relaxed in recent years to permit the creation of stronger broadcasting enterprises. Broadly speaking, we agree with the Task Force that more concentration is needed to create a strong system, and that guidelines are required to keep the development within public-interest limits.

While general Canadian competition law is relevant, it must be reiterated that broadcasting is not just another industry. There is a clear distinction between the responsibilities of the media and other service industries.

Controls on ownership concentration are justified by the principle that freedom of broadcasting requires a free flow of information, opinion and entertainment from a diversity of sources. A wide range of independent sources also offers alternative outlets for the journalists, creators, producers, and the other people who provide programming.

The CRTC is not directly required under the *Broadcasting Act* to limit concentration of ownership. It has done so through interpreting the statement of the public interest and broadcasting objectives set out in section 3, part of subsection (g) of the *Act*: "the programming provided by the Canadian broadcasting system should be varied and comprehensive and should provide reasonable, balanced opportunity for the expression of differing views on matters of public concern". This appears to imply diverse sources of ownership.

The difficulty facing the regulator is to strike the correct balance between diversity and providing for sufficiently strong enterprises to produce the programming Canadians need. While program objectives largely depend on the programming resources are aggregated within Canada, financial strength must not be allowed to override the diversity principle. In fact, networks of off-air stations, which are the principal instruments for aggregating resources, do not depend at all on common ownership.

7.2 Effective Canadian Ownership and Control

When the *Broadcasting Act* was passed in 1968, one of the major concerns was the degree of foreign ownership of broadcasting enterprises. Thus, section 3(b) of the *Act* stipulated that the broadcasting system "be effectively owned and controlled by Canadians so as to safeguard, enrich and strengthen the cultural, political, social and economic fabric of Canada".

The *Act* made provision for the government to issue directives to the CRTC defining the way in which the Canadian ownership and control requirement was to be interpreted. Accordingly, in Order-in-Council 1968-69 the Commission was prohibited from issuing or renewing licences of corporations unless:

1) at least 80% of the voting shares of the corporation (and its controlling corporation, if any) are owned by Canadian citizens or eligible Canadian corporations; and
2) shares representing at least 80% of the paid-up capital of the corporation (and its controlling corporation, if any) are owned by Canadian citizens or eligible Canadian corporations.

The directive was revised in March, 1969, under Order-in-Council 1969-30 to apply to cable systems as well.

The directive was retroactive and therefore applied to existing licensees as well as new applicants. As a result, from 1969 to 1973 there were 80 divestitures. The Royal Commission on Corporate Concentration (Bryce Commission) noted that the process may even have contributed to concentration of ownership to the extent that the CRTC appeared to have difficulty finding qualified Canadian buyers. [Report of the Royal Commission on Corporate Concentration, Ottawa, 1978, p. 351.]

In its Sixth Report the Committee endorsed the recommendation of the Task Force that the Canadian ownership and control provision be retained. Indeed, we recommended further that the key requirements be embodied in the act and not left to regulation or cabinet directive.

Recently the CRTC has examined carefully the ownership of Rogers Communications Inc. (RCI) in particular at the time of the renewal of the licence of station CFMT-TV, which is controlled by RCI. In response to a question from the Committee the CRTC indicated that as of June 30, 1987, 37.6 percent of all of RCI's common shares (Class A and Class B) were held by Canadians. An offer by Rogers to purchase shares in RCI indicated that as of September 30, 1986 only 23.6 percent of RCI's common shares had been held by Canadians.

In response to the Committee's questions, the CRTC advised that RCI was in compliance with the directive, in that 94.4 percent of its Class A (voting) shares were owned by Canadians as of June 30, 1987, as were 92.8 percent of the shares representing Rogers "paid-up capital". The CRTC noted that the government directive "does not address required levels of common shares alone and the Commission is of the view that such a requirement is not necessary...." [CRTC Response to Questions submitted on 15 December, 1987, by the Standing Committee on Communications and Culture, Canadian Ownership, Question 1, January, 1988.]

The CRTC noted, however, that RCI delisted its Class B shares from the NASDAQ listing service in the U.S. in December, 1986; instructed its transfer agent to refuse to register purchases of RCI Class B and preferred shares whenever the purchaser was not a Canadian citizen; and has made offers to repurchase its Class B shares. The Commission noted as well that it was continuing to monitor carefully the level of non-Canadian ownership of the shares of RCI, requiring semi-annual reports.

The Committee has seen no evidence that Rogers Communications Inc. has failed to comply with the technical requirements of the existing directive, nor that the CRTC has failed to act on its precise requirements. Nevertheless, the RCI case raises questions about the adequacy of the existing directive, and particularly the interpretation of the term "paid-up capital" in the directive. While provision would have to be made for a transition to any amended requirements, we believe that the issue is an important one and should be addressed effectively.

Recommendation 131

> The government should clarify the provisions of its directive on Canadian ownership and control of broadcasting undertakings, particularly the requirements related to paid-up capital, in order to ensure that the directive is clear and effectively achieves its purpose of ensuring both ownership and control by Canadians.

7.3 Present State of Concentration in Broadcasting

Concentration of ownership in the radio industry has been increasing, but ownership is still widely dispersed at the national level. Slightly more than 30 percent of all private radio stations were owned by 13 groups in 1985; many are large corporations with interests in other sectors of broadcasting, according to the Task Force.

Concentration differs from province to province, although there has been a tendency in recent years for regional companies to expand into other regions, and to specialize in certain market sizes. CRTC ownership policy has limited a single company to one AM and one FM station in each market, at least in each language. The Task Force concluded that ownership concentration in radio has not reached a high level nationally, or an unreasonable level in either French or English markets. Chain ownership has in fact ensured the survival of some smaller stations.

In television, nearly 80 percent of private stations in Canada in 1985 were operated by groups that owned more than one station; almost 50 percent were owned by groups that control three stations or more. Several of the larger firms also owned radio, cable, or program-production firms, with operations covering several regions; other firms were provincial or regional in scope. Television firms with two or more stations were predominant in Quebec and Ontario. In smaller markets, there were a number of twin-stick operations, or companies that use one facility with two antennas to broadcast the programming of two networks and their own local input, to a single market.

Most private television stations are affiliated with firms extensively involved in some other aspect of broadcasting. The Task Force found that in private television there continues to be considerable dispersal of ownership, especially of the largest stations, both in the national French and English markets and in major regional and local markets. Competition has increased due to the licensing in recent years of the Quatre Saisons network in Quebec and of independent English-language stations elsewhere.

In recent years the cable industry has steadily consolidated, although concentration today is actually less than in the late 1960s when two large American companies controlled or held interests in systems accounting for 52 percent of subscriptions. In 1985, according to the Task Force, 75 percent of subscribers received service from the 12 largest cable companies; five companies had 53 percent of subscribers. One company, Rogers Communications Inc., held 23.5 percent of Canadian subscriptions, while another, Le Groupe Vidéotron, had 11.4 percent of the national market; all the other companies had shares of less than 10 percent. None of the large cable companies is truly national in scope, and some operate in only one province.

Cable companies should be considered differently from TV and radio, since the cable companies have monopolies in the areas they are licensed to serve. Although some diversity of ownership is desirable to foster different approaches, innovation and research, the CRTC has looked favourably on the creation of larger cable units. The Task Force concluded that concentration of cable ownership, under regulation, may well be desirable in many parts of the country to foster the necessary capital development to provide additional services and better quality through installation of new technology.

In 1984, the CRTC introduced a major change in ownership policy aimed at strengthening the financial capacity of stations and networks to face the pressure of competition from unregulated foreign and domestic sources. The new CRTC strategy was announced by Commission Chairman André Bureau, who stated that a greater emphasis would be put on the "financial viability" of proposed undertakings:

> ...we want to ensure as much as possible that the services we approve and that Canadians come to value will have permanence in the competitive marketplace, which demands financial strength as well as creativity and ingenuity. (André Bureau, "Cancon (Canadian content)in Turbulent Times," Notes for an Address to the Broadcast Executives Society, Toronto, 8 March 1984.)

In a 1985 speech Mr. Bureau said the Commission was ready to take an entirely flexible approach on the issue of cross-media ownership — that is, the ownership of several different types of media, such as cable, radio, TV, and newspapers — in order to strengthen and expand the Canadian broadcasting system:

> I will even go so far as to say that the Commission's belief in financially strong entities has moved it to the point of being prepared to examine a relaxation of CRTC-imposed cross-ownership restrictions on a case-by-case basis if that is what it would take to ensure strength and long-term viability. Canada simply has not got the luxury of being able to afford failure in these areas. The risks and costs are just too high. (André Bureau, Speech to the Canadian Cable Television Association, 9 April 1985.)

This new CRTC regime of emphasizing financial viability is illustrated in several examples from east to west.

- The licensing of the Irving interests in New Brunswick, not only for the renewal of their CBC affiliate in Saint John, CHSJ, which has rebroadcast transmitters to provide coverage throughout the province, but also — in return for a commitment to carry the full CBC network service on CHSJ — for a second Maritime TV network covering Nova Scotia and New Brunswick;

- The licensing of the owner of English-language CFCF in Montreal, which also has a program production company and a cable company, to start Quebec's second French-language private TV network, Quatre Saisons. One CRTC member filed a dissenting opinion, citing excessive concentration of ownership;

- The authorization through transfer of licence of Le Groupe Vidéotron, to take over Télémétropole Inc., flagship of the TVA network and owner of a major program production company. Vidéotron is already Canada's second largest cable company;

- The authorization through transfer of licence of Baton Broadcasting Inc., to take over the CTV network station in Ottawa, CJOH. Baton owns CFTO in Toronto, flagship of the CTV network, two CTV stations in Saskatchewan, and a major program production company;

- The authorization through transfer of licence of I.H. Asper's CanWest Broadcasting, to take over independent station CKVU in Vancouver. CanWest owns a Winnipeg television station, a share in control of Global television and stations in Regina and Saskatoon.

While the new acquisitions authorized for these important broadcasting enterprises are still competitive, these CRTC decisions do provide examples of the different kinds of concentration that have caused concern in the past: horizontal integration, cross-media ownership, vertical integration and ownership of media by non-media conglomerates.

7.4 Concentration Issues

Over the years many inquiries have looked into media ownership issues, including the Special Senate Committee on Mass Media (Davey Committee), the Royal Commission on Corporate Concentration (Bryce Commission), the Royal Commission on Newspapers (Kent Commission) the Consultative Committee on the Implications of Telecommunications for Canadian Sovereignty (the Clyne Committee), and the CRTC's 1980 Committee on Extension of Service to Northern and Remote Communities (the Therrien Committee).

The CRTC itself began an examination of ownership questions in 1978 with the appointment of the Ownership Policy Group to begin research. This led the Commission to publish a notice of public hearing in 1979 for a formal evaluation of its ownership policies. The majority of written submissions, however, expressed satisfaction with the policies in effect at that time and the hearing was cancelled.

7.4.1 Horizontal Integration

"Concentration" is often seen as horizontal integration — the common ownership of similar enterprises at the same stage of the production chain, such as the multiple ownership of radio stations, TV stations, or cable systems. The creation of such chains has grown apace in broadcasting. They have not reached the same degree of dominance in the industry as newspaper chains have in newspaper publishing, except perhaps in the French-language market in Quebec.

The Davey Committee held that expansion of chain ownership should be judged on the criterion that "all transactions that increase concentration of ownership in the mass media are undesirable and contrary to the public interest — unless shown to be otherwise". [*Uncertain Mirror*, p. 71.] The Committee wanted to see this principle enunciated in an amendment to the *Broadcasting Act*. This recommendation was not accepted and the CRTC was left to determine its approach to concentration on a case by case basis.

Prospective applicants for transfer of licence thus had to review the precedents and determine for themselves what their chances might be. In general, it appeared — by the early eighties — that the Commission would allow only one TV station and an FM-AM radio pair under common ownership in a single market. Usually not more than one CTV affiliate could be owned by the same entity and, if ownership of more than one affiliate occurred, the owner would be restricted to one vote in network affairs. Applicants for transfer of licence — that is, takeovers — were required to show there would be some positive benefit to the proposed action.

In recent years the CRTC has applied the test of "significant and unequivocal benefits", to be met by applicants for transfer of licence to enlarge their holdings. That is, an applicant must persuade the Commission that the proposed takeover will yield significant and unequivocal benefits to the communities served by the undertaking, to the Canadian broadcasting system as a whole, and also that the proposal is in the public interest.

The 1984 policy change to accommodate greater concentration if benefit could be demonstrated is epitomized by the case of Baton Broadcasting, which was refused permission to acquire CFCF Montreal in the late seventies but allowed to take over CJOH in Ottawa in the late eighties.

The CRTC's *ad hoc* approach contrasts with the policy in the United States, where the Federal Communications Commission (FCC) has issued detailed rules on ownership. Although these have been eased in recent years, there are still clear limits on the number of radio and television stations that can be owned by an individual or group. This is not to suggest that American rules would be appropriate for Canada; for one thing, the American market is ten times larger. But we do acknowledge the advantages of having clear guidelines on ownership.

7.4.2 Cross-Media Ownership

In 1979 the CRTC signalled its concern about joint ownership of newspapers and broadcasting undertakings "in view of the potential reduction in independence and separate editorial judgments that this could involve". The Commission noted that the concern would be the greater if there were joint ownership of broadcasting and newspapers in the same market.

A further concern with respect to cross-ownership of cable television undertakings and newspapers has been that such cross-ownership potentially could establish for the newspaper enterprises involved an undue advantage over other print media in the same community. The Commission's position was, in fact, that "cross-ownership should not be permitted except in special circumstances". [CRTC Notice, 9 Feb. 1979.]

The Kent Commission in 1981 added its concern about cross media ownership in local markets, proposing that a reasonable guideline would be that:

> ...the proprietor of a newspaper may not own or control a television or radio station or a cable system if 50 percent or more of the population within good reception reach of the electronic medium live in the areas where the newspaper is generally available by home delivery or by box or newsstand sale. [Report of the Royal Commission on Newspapers, 1981, p. 239.]

The Kent Commission recommendation was underpinned by its own opinion study. Through queries on various types of media concentration, as shown in Table 7.1, the survey found that local cross-media ownership was the type of media concentration that concerned Canadians most. The survey showed that 79 percent of Canadians would be concerned either a lot (66%) or a little (13%) if one company owned the TV/radio/newspaper outlets in the local area.

Table 7.1 Degree of Concern for Different Ownership Situations

Situations	Level of Concern			"Good idea"	Other
	A lot	A little	None		
If one company owned:					
– all local papers	56%	16%	28%	–	–
– all provincial papers	67%	11%	22%	–	–
– many papers in Canada	51%	17%	32%	–	1%
If the federal Government gave fianancial support to a paper going out of business	36%	19%	31%	10%	5%
If the federal Government supported a national paper the same way it finances CBC	41%	20%	31%	6%	2%
If one company was involved in more than one form of mass communications	46%	21%	23%	–	1%
If one company owned the TV/radio/paper outlets in the local area	66%	13%	21%	–	–

Source: Royal Commission on Newspapers, Research Studies, Vol. 1, p. 59

The proposal on cross-media ownership was the only anti-concentration recommendation of the Kent Commission to be adopted, albeit in somewhat different form, by the government of the day. In July, 1982, the cabinet issued a direction to the CRTC against issuing or renewing broadcasting licences for daily newspaper proprietors where "the major circulation area of the daily newspaper substantially encompasses the major market area served or to be served by the broadcasting undertaking".

The test that a newspaper's circulation area should "substantially encompass" the broadcaster's market was much more demanding than the test proposed by Kent, which required only a 50 percent overlap. Further, the 1982 directive provided for exceptions owing to "overriding public interest considerations" such as an adverse effect on service to the public, exceptional or unreasonable hardship to the applicant, and the existing level of competition in the area in question.

The new directive was tested in a number of licence-renewal hearings where newspaper interests owned broadcasting stations in the same market. In only one case, that of the Irvings in New Brunswick, did the Commission demur from a full licence renewal. Members of the family of K.C. Irving, the province's dominant industrialist, own all of the province's English-language daily newspapers (in Saint John, Moncton and Fredericton), a radio station in Saint John, and the CBC television affiliate in Saint John, CHSJ, with its rebroadcast transmitters throughout the province. In 1983, the CRTC granted only a two-and-a-half-year extension of licence, to be reviewed in 1985. In 1985, however, the cabinet cross-ownership directive adopted in 1982 was withdrawn. An expansion of Irving broadcast interests was subsequently approved in return for carriage of the full CBC network schedule on the CHSJ system.

In the United States, the development of cross-media ownership limitations took a rather different course. Until 1968, the Federal Communications Commission followed an ad hoc approach to the issue of diversification of ownership, similar to the course followed by the CRTC. The FCC, meanwhile, began a six-year rule-making period of studies and hearings aimed at establishing rules to govern cross-media ownership.

In 1975 the FCC set out rules under which daily newspapers could not apply for radio or TV licences in their own vicinity, and TV or radio stations could not buy newspapers in the same vicinity. In 1975 there were 153 instances of such "co-location" of broadcasting and newspaper ownership; about 90 percent of these were grandfathered by the new FCC rules. In contrast, the later but short-lived Canadian cross-ownership directive applied to renewal of existing licences as well as new licences.

By the 1980s as the FCC reexamined its cross-ownership rules because of the increased number of broadcast channels, the directive against local cross-media ownership in Canada made provision for exceptions in light of "the level of existing competition in the area served or to be served under the broadcasting licence". In this country, cross-media ownership includes instances, such as Saint John, N.B., and London, Ont., where the newspaper proprietors who own broacasting stations own the only newspaper in town; there is really no guideline on the issue of how much competition is enough, or how much concentration is too much.

7.4.3 Media Ownership by Non-Media Conglomerates

The potential conflict of interest when media are owned by non-media conglomerates is that the media will be used to protect or promote the other business interests of the proprietor. This danger has been highlighted by most of the inquiries concerned with concentration in recent years. But the issue has not appeared to be one of particular concern to the regulator or the government.

While the Bryce Commission, found no evidence of undue interference in newspaper editorial policies owing to non-media ownership, it nevertheless identified this as an area for concern, along with cross-media ownership. It concluded that the trend

> ...of one medium expanding into other media areas and of ownership of media interests by industrial or commercial interests ... seems to us the most significant to the public interest at this time and the areas where greatest concern should be focused. [Bryce Commission, *Report* p. 353.]

The Bryce Commission was critical of the CRTC for its lack of analysis of the impact of ownership by non-media conglomerates, in light of the potential for conflict of interest.

The Kent Commission argued in the case of newspapers that they lacked legitimacy if their freedom from influence by the other business interests of the publisher could be questioned. They could also be drained of profits to build the other holdings of a conglomerate. The same arguments could be made in respect of broadcasting undertakings.

7.4.4 Vertical Integration

Vertical integration gives an owner of a company control over other firms that are its suppliers or customers; for example, the control of a production house by a television station, or of a station by a network. The ownership of a television network or station by a cable company, or vice versa, is to some extent vertical integration because the combined company has greater control over the means of distribution.

Vertical integration may give firms undue power because they can favour their own suppliers or distributors over other firms. In the case of broadcasting, this means that, on the one hand, independent producers could be at a disadvantage, or, on the other hand, other programmers looking for space on a cable system could be given less favourable treatment than the owners of the system.

The Clyne Committee said that "it is a desirable principle that a carrier should not be permitted to use its technological resources to compete with those who have to depend on its services."

> In these respects, the cable industry is in an anomalous position. A cable company is able to produce and distribute television programming of its own, potentially in competition with the signals of the broadcasting stations and networks it distributes, and is not subject to regulation on the principles that are accepted as applicable to other telecommunications carriers and to public utilities. [Telecommunications and Canada, p. 17.]

The Clyne Committee held that cable companies should be regulated as common carriers and be separately incorporated for other purposes. The Task Force took a similar view.

> Cable undertakings must be clearly identified as undertakings that receive and retransmit broadcasting signals. The activities of creation, assembly and marketing of programming, other than that which is simply retransmitted, or of providing non-programming services, should be entrusted to separate organizations. [*Report*, p. 575.]

This Committee, while agreeing that cable companies must carry their own and other services on a non-discriminatory basis, believes that they should remain as hybrid undertakings, mainly distributors but also with programming responsibilities. In its Sixth Report the Committee proposed a number of measures to prevent this status from leading to conflicts of interest. We held that:

> The act should provide that no distribution undertaking may have an ownership interest in, or be in common ownership with, a pay television, specialty or any other network programming service distributed on such undertaking on the basis of a contractual relationship between the licensed network and the distribution undertaking, or where the consent of the network or the distribution undertaking is required for carriage. [Sixth Report, Recommendation 50, 36:73.]
>
> Equitable non-discriminatory access should be provided by distribution undertakings to third parties wishing to offer non-programming services. [Sixth Report, Recommendation 55, 36:75.]

In Chapter 4 we recommend that common carriers be prohibited from holding broadcasting or broadcast distribution licences.

Vertical integration had been of concern to the Therrien Committee, which laid the basis for the first licensing decision of pay and specialty channels. Its recommendations led the CRTC to stipulate that the providers of these services could not be in common ownership with either the cable companies or program producers.

Pay television services are prohibited by the CRTC from doing any in-house production, although they may rent studios to others for production purposes. The CRTC has also sought to promote the use of independent producers through conditions of licence: the licences of the Global and Quatre Saisons television networks, for example, require them to purchase specified amounts of independent production. Independent producers are also encouraged through Telefilm Canada and CBC policy.

In the United States, the FCC provides for broader restrictions on network in-house production in order to prevent networks from squeezing out independent producers.

7.5 The Need for New Ownership Guidelines

The haphazard development of CRTC ownership decisions over the years to cope with various situations has left the Commission virtually bereft of clear or discernible policies in this area. It is not surprising that the rejected applicants for the London radio stations recently complained that broadcasters had no way of knowing what the CRTC might consider to be "significant and unequivocal benefits" that would justify the expansion of an already large radio chain.

The absence of clear guidelines leads to inconsistent decisions, creating uncertainty and unpredictability for both business and other interest groups. This can result in the waste of considerable time and money on proposed transactions which are then rejected by the Commission. The process tends to become politicized through negotiations between applicant and regulator, giving the impression that some applicants are treated more favourably than others.

Furthermore, the CRTC does not provide a guideline as to what degree of concentration would constitute grounds for rejection of an application regardless of how significant the benefits. Arguably, there must be a point at which it is no longer feasible in a free society for a single company to increase its control over sources of information, opinion, and entertainment, no matter how fine a corporate citizen it may appear to be.

Observers know that Power Corporation's promises were not sufficient to allow it to add the Télémétropole empire to its newspaper and industrial empire, but the CRTC did not indicate whether Power's existing media and industrial power was also an element militating against acceptance. By contrast, Vidéotron has been allowed to integrate vertically and horizontally in taking over Télémétropole, apparently because it made a better promise of performance than Power.

Whatever guidelines were discernable in the 1970s, have been superseded by the "financial viability" doctrine launched in 1984. The increasing number of applications for transfer of ownership, the absence of competitive applications for transfers at times of licence renewal, and the reluctance of the CRTC to revoke broadcasting licences make it imperative that clearer policies be established.

The Task Force decided in 1986 that while more concentration was necessary to strengthen the elements of the broadcasting system, it was time to draw up ownership guidelines. The Task Force recommended that the CRTC undertake "a policy hearing to review the issues related to ownership concentration in broadcasting". [*Report*, p. 646.]

We endorse this position, but believe that more than a set of hearings is necessary. First, a research program should include studies of the legal, cultural and economic issues and these should be published. These studies should give the public a clear picture of concentration — how to define it, how to measure it, how much of it there is, what impact it has, and what options are available to deal with it. Then public hearings should be held. It might well be appropriate for the CRTC to establish a special committee of enquiry as in the case of service to remote areas and the introduction of pay and specialty services (Therrien Committee).

Policies to achieve financial strength in the private sector of the Canadian broadcasting system must be compatible with a clearly enunciated ownership policy, and guidelines on the limits of ownership. The present lack of explicit CRTC policy could give rise to arbitrary action, is unfair to applicants, and leaves the public uninformed about an important question of public policy.

Rules must be established, and applied — and be seen to be applied. These rules must protect the public interest in the free flow of information, opinion, and entertainment from a diversity of independent sources; and ensure competition that will foster fair prices and fair rates to advertisers, and encourage innovation.

We said earlier that the diversity principle is the fundamental concern in regulating broadcast ownership. Owing to the extent of vertical and horizontal concentration now being permitted, however, there must also be some concern that the economic interests of the public could be harmed as well.

Recommendation 132

> The CRTC should immediately start a process of preparing general policy and specific guidelines on ownership and corporate concentration in broadcasting. This should include research studies

and, following their publication, public hearings. The inquiry, which could be conducted through a special CRTC committee, should examine issues of concern to broadcasting arising from concentration within media, across media, between media and non-media interests, and of vertical integration of ownership of successive stages in production, programming and distribution.

The inquiry should be held within the scope of the new broadcasting legislation that takes the place of the present *Act*. We do not wish to see any particular approach assumed in advance but would draw attention to the view of the Task Force, based upon its research, that share of market might be an appropriate approach to establishing limits on permissible concentration. That is, limits could be established on the share of particular markets that an individual broadcaster or media outlet could hold. Care must be taken, however, to differentiate between the French-language and English-language markets.

Almost by definition, a higher degree of concentration of mass media is likely in smaller markets than in larger ones, since mass media seek mass audiences. In mathematical terms, this could be accommodated by permitting a certain share of the national market in Canada, which would automatically work out to a higher percentage of the French-language market than of the English. The dangers of this approach are illustrated, however, by the draft newspaper legislation in 1982, which never reached Parliament. The draft bill provided that a newspaper chain would be limited to 20 percent of the national market — an amount equal to the total French-language newspaper circulation in Canada. Obviously, it was an inadequate limitation.

Recommendation 133

> Attention should be given to the possibility of limiting broadcast owners to a certain share of market, but whatever guidelines are used, they must take into account the distinct needs of the French-language and English-language markets.

8.0 COPYRIGHT AND BROADCASTING POLICY

8.1 Introduction

The importance of copyright issues to program producers and creators in the financing of their productions hardly needs underlining. As the Task Force noted, "one cannot expect the Canadian broadcasting system to present Canadian works of high standard if steps are not taken to pay creators properly". [*Report*, p. 651.] The protection of program rights is vital to the broadcasting industry.

Canada's copyright law has not been substantially amended since it came into force in 1924. Moreover, it has failed to keep pace with developments that have transformed the broadcasting industry; like cable television, satellite programming services and, most recently, the emergence of the home videocassette recorder (VCR).

These and other issues have been discussed in the context of a comprehensive reform of the *Copyright Act*. The first phase of this reform was introduced in May, 1987 as Bill C-60. Further amendments relating to retransmission rights were introduced on May 24, 1988 as part of Bill C-130, the proposed legislation to implement the *Canada-U.S. Free Trade Agreement*. A comprehensive package of amendments on remaining issues is also pending. Among these reforms are those that have a direct impact on the broadcasting industry. These include a performance right in sound recordings, performers' rights, retransmission rights applicable to cable television systems, and possible exceptions for ephemeral recordings.

As legislators consider whether new rights or exceptions to existing rights should be granted in a revised *Copyright Act*, it is important to ensure that any changes are responsive to the needs of the Canadian broadcasting system. It is also important that the broadcasting regulator be cognizant of the importance of copyright and that the regulator be prepared to intervene to protect program rightsholders in situations where the financing of Canadian programs may be jeopardized, and where the *Copyright Act* does not provide an appropriate remedy.

The Committee has reviewed the conclusions of the Task Force on copyright issues. In the following discussion, we consider a number of the suggestions raised by the Task Force. In commenting on the implications of potential reforms in copyright law for CRTC licensing policy, the Committee does not wish to supersede the role of those who will be reviewing any proposed changes in copyright law. Our purpose is to focus on those issues of copyright reform which affect the Canadian broadcasting system.

8.2 Sound Recordings and Performances

In October, 1985, the Report of the Sub-Committee on the Revision of Copyright, which was formed in response to the government's White paper, *From Gutenberg to Telidon*, released *A Charter of Rights For Creators*. Two of its recommendations related to copyright in sound recordings and in performances.

Regarding sound recordings, the Sub-Committee recommended that a public performance right be granted to the producers of records. (A performance right is already applicable in regard to the composers and writers of lyrics in the music performed.) The extended rights granted for the public performance, transmission and retransmission of sound recordings would, however, be extended only to nationals of those foreign countries which provide similar protection to Canadians. At present, the United Kingdom and Australia provide such rights; the United States does not. The government agreed in principle with this recommendation in a response tabled in February, 1986. It also stipulated that the conditions and mechanisms for extending these new rights to sound recordings of foreign origin would be defined in the Act.

The Task Force recommended that "the principle of independent protection for sound recordings as a category distinct from the original works they contain should be recognized in the *Copyright Act*". As the Task Force noted, "broadcasters use sound recordings to attract and to keep audiences and it is fair that producers should derive compensation as well [as composers and writers of lyrics]". The Committee agrees with this approach, recognizing that the amount of such fees would be a matter subject to negotiation and/or review by a Copyright Board.

Recommendation 134

> The principle of independent protection for sound recordings as a category distinct from the original works they contain should be recognized in the *Copyright Act*.

The Task Force reached a similar conclusion in regard to the recognition of "performers' rights". In doing so, the Task Force reaffirmed a recommendation made by the Sub-Committee on the Revision of Copyright in 1985 which was accepted in principle by the government in 1986.

We also endorse this recognition of performers' rights in a new *Copyright Act*, and believe that such a recognition would enhance rather than impair the achievement of the Canadian broadcasting policy.

Recommendation 135

> The right of performers over their performances of a creative work should be recognized in the *Copyright Act*.

8.3 The Broadcast Day

In the *Report* of the Sub-Committee on the Revision of Copyright in 1985, it was recommended that the *Copyright Act* recognize a distinct right in broadcasts, in addition to the rights in the works contained in such broadcasts. In particular, the Sub-Committee stated that "there is surely as much creative input in arranging a broadcast, or a "broadcast day' as it is referred to by broadcasters, as there is in other compilations, a street directory, for example. Compilations in the nature of a broadcast should therefore be protected".

The government accepted this recommendation in principle in 1986, stating that broadcasts would be assigned to a separate category in the new act together with sound recordings and performers' performances. The conditions and mechanism for extending the rights granted under the act to foreign broadcasters would be defined in the act itself.

The Task Force on Broadcasting Policy did not support this recommendation. Without discussing the broadcast right in detail, the Task Force expressed the view that "the recognition of a distinct right in broadcasts will have serious consequences for Canadian broadcasting policy" (*Report*, p. 652). Presumably, this reflected the Task Force's concern that Canada have greater flexibility to deal with issues presented by the importation of the signals of American stations, as expressed later in its *Report*.

Because the matter was not dealt with in detail in the Task Force Report, none of the submissions to the Committee specifically addressed this issue. We recognize that the creation of a distinct right in a broadcast day could give rise to arguments on both sides. However, in the absence of further evidence on this question, the Committee does not feel that it is in a position to comment further.

8.4 Ephemeral Recordings

Ephemeral recordings represent a much different issue. As described in the *Report* of the Sub-Committee on the Revision of Copyright, there are four different types of "ephemeral recordings".

(a) Pre-recordings made as a matter of convenience to facilitate the initial broadcast;

(b) Recordings made to allow a broadcast program to be shown in different time zones;

(c) Recordings kept in archives for internal reference and research;

(d) Recordings required to be maintained for a period of 30 days by the CRTC for regulatory purposes.

In the absence of an exception to copyright for ephemeral recordings, each of these situations would involve the making of a copy or a fixation of the work and would require the contractual consent of the copyright owner.

The Sub-Committee recognized a need for an ephemeral recording exception only with respect to broadcasting in different time zones and CRTC requirements. With respect to the general pre-recording of programs, however, the Sub-Committee found "no justification in derogating from the creator's basic right of reproduction. Such pre-recordings can and should be authorized contractually".

The issue has become more pressing for the broadcasting industry since the Federal Court of Appeal ruled unanimously that the pre-recording of programs intended for broadcast, even when the performance rights have been separately authorized, requires the contractual consent of the copyright owner: see *Télé-Métropole Inc. v. Bishop and Canadian Musical Reproduction Rights Agency Limited* (Federal Court of Appeal, November 5, 1987). The Task Force on Broadcasting Policy did not specifically take a position on this matter. However, the Committee received a submission from the Canadian Association of Broadcasters urging that an ephemeral right exception be made to the *Copyright Act* not only with regard to the two situations endorsed by the Sub-Committee in 1985, but also with regard to making a reproduction for the purposes of broadcasting a work.

In its response of February, 1986, the government held a similar view, that an ephemeral recording exception should be granted to cover not only the CRTC requirements and time zone requirements but also the routine pre-recording of works for later transmission. Such a right would be granted for a period of six months after the initial transmission. Upon the expiry of that term, the recording could be kept only for research and study purposes.

The Committee agrees with the Canadian Association of Broadcasters, that the concept of ephemeral recordings raises a number of practical problems, particularly in light of the fact that other jurisdictions, including the United States, the United Kingdom and Australia, legitimize the practice of making ephemeral recordings for the purpose of broadcast, at least in regard to sound recordings. (Cinematographic works are generally not so excepted, on the grounds that a copy of the film or tape is in fact delivered to the broadcaster by the copyright owner and any necessary ephemeral rights can be readily dealt with by contract.) The exercise of a wider ephemeral exception, at least for sound recordings, would also, in our judgment, present fewer economic issues to the recording industry, given our recommendation that a separate performance right should be given to the producers of recordings. Thus we feel that there is merit in the wider application of the ephemeral recording exception, at least insofar as sound recordings are concerned.

Recommendation 136

> An ephemeral recording exception should be provided in the *Copyright Act* to cover the making of recordings by broadcasters who have obtained the right to broadcast such works for the following purposes: time zone requirements, compliance with CRTC regulations, archival considerations, and, at least with regard to sound recordings, for the pre-recording of works for later transmission.

8.5 Retransmission

The most significant change in the new *Copyright Act* is expected to occur with the incorporation of a "retransmission right". Although Copyright owners have had the right to authorize the radiocommunication of works to the public (including both radio and television broadcasting) since 1931. The retransmission of broadcast signals by cable television systems has been exempt from copyright liability on the basis of a 1954 decision of the Exchequer Court of Canada.

The impact of the importation of distant signals by cable television on local program rightsholders can be profound. For example, if programs originally licensed by the copyright owner for broadcast by a station (A) in one market are microwaved or delivered by satellite to a cable system or an SMATV system in another distant market, where the same programs may already have been sold on an exclusive basis to a station (B) in that market, the integrity of the local station's, (B) program rights can be materially affected by such importation.

In the absence of adequate protection under the *Copyright Act*, the only way to protect local program rightsholders has been to deal with the problem through rules and regulations relating to the carriage of distant signals and imposed on cable television licensees by the CRTC. Such policies, take a number of forms. Their purpose has generally been to protect local television stations and their ability to provide service; however, these policies have also served in certain cases to protect the integrity of program rights granted in those markets.

In the 1985 *Charter of Rights for Creators*, it was recommended that a retransmission right be added to the new act. The right would be subject to an exemption for common carriers. It would also be granted by way of a compulsory licence and tariffs would be established by a restructured Copyright Board. Rates would be lower for local signals and small cable systems serving small and isolated communities would be shielded from any material impact.

In its response in February, 1986, the government agreed with these principles. With respect to the scope, implementation and operation of the system, however, the government indicated that:

(a) local signals, which remain to be defined, would be excluded from the new system;

(b) the Copyright Appeal Board would study the matter and report to the government on the system to be adopted;

(c) the system would be implemented on a date to be set by proclamation;

(d) the tariffs set by the Copyright Appeal Board would be subject to a right of review by the Governor in Council.

More recently, the issue of retransmission rights has been the subject to a specific commitment in Article 2006 of the *Canada-U.S. Free Trade Agreement*, signed by Prime Minister Mulroney and President Reagan on January 2, 1988. Article 2006 applies equally to both Canada and the United States. In the case of the United States, amendments to provide for a retransmission right were introduced in the U.S. *Copyright Act* of 1976. Under the Free Trade Agreement, Canada would be obliged to amend its *Copyright Act* so as to introduce such a right, to take effect no later than January 1, 1990.

The retransmission right envisaged by the *Canada-U.S. Free Trade Agreement* is similar in many respects to the right contemplated in the government response to *A Charter of Rights For Creators*. In summary, Canada would be obliged to grant "a right of equitable non-discriminatory remuneration" for the simultaneous unaltered retransmission to the public of a copyright program where the original transmission of the program is carried by distant signals intended for free, over-the-air reception by the general public. Following the precedent in the United States, this right would likely take the form of a compulsory licence under an amended *Copyright Act*, with the level of royalties to be determined by an independent tribunal, the Copyright Board.

If there had been a charge for the "3 + 1" service when it was first introduced, the system might have developed differently. A retransmission right will involve an outflow of copyright royalties to foreign countries, especially the United States, as Canada is a net importer of copyright material. As the Sub-Committee on the Revision of Copyright stated in *A Charter of Rights for Creators*: "The provision of a retransmission right is particularly germane to the problem because Canada imports a great many foreign, and particularly American, television programs." [*A Charter of Rights for Creators*, p. 77.]

Article 2006 also focuses on copyright liability in other situations. Where the retransmission to the public of program signals was not intended in the original transmission for free, over-the-air reception by the general public, Article 2006(2)(a) provides that retransmission shall be permitted only with the authorization of the copyright holder in the program. Examples of this would include pay television signals, closed circuit transmissions to theatres, background music services intended for subscription use, and satellite-to-cable services involving original transmissions intended for cable homes only.

In addition, Article 2006 addresses the situation where the retransmission of a broadcast program is carried out in altered form or on a non-simultaneous basis. In these circumstances, subject to a number of specified exceptions, retransmission again, shall be permitted only with the authorization of the holder of copyright in the program. If the alteration or non-simultaneous retransmission is permitted under the specified exceptions, then an exclusive right is not granted; instead the right of equitable and non-discriminatory remuneration applies.

The specified exceptions to this last provision make it clear that almost all of the current CRTC rules to prohibit or limit the importation of distant signals would not be foreclosed by the new copyright regime. In particular, Article 2006 specifically permits the imposition of simultaneous substitution rules (whereby a cable system substitutes a higher priority or non-distant signal broadcast by a television station for a simultaneous lower priority or distant signal when the signals are carrying substantially the same program).

It is also important to note that the *Canada-U.S. Free Trade Agreement* provides for more than just the maintenance of existing measures (such as simultaneous program substitution) to protect the integrity of local television stations. In Article 2006(3)(b), provision is also made to allow either the FCC or the CRTC to introduce new measures "to enable the local licensee of the copyrighted program to exploit fully the commercial value of its licence". Thus, the agreement recognizes that the compulsory licence regime will not resolve all program rights questions arising from the importation of distant signals. The broadcast regulator will still play an important role in maintaining or enhancing those rights.

8.5.1 The Task Force Proposal on Retransmission

The Task Force considered thoroughly a number of issues regarding the recognition of a retransmission right. In summary, the Task Force recommended that the principle of a retransmission right be recognized in the *Copyright Act*. It also endorsed the principle that the terms and conditions for such rights should take into account the cost of retransmission and the limitations involved in broadcasting in remote regions.

The Task Force went on to suggest that careful consideration be given to a new approach to importing the "3+1" U.S. networks. Concerned with the impact of these signals on local Canadian broadcasters who have acquired the right to broadcast most of the same programs in their local markets, the Task Force endeavoured to find a solution that would respond to U.S. demands for compensation as well as the concerns of Canadian broadcasters over the erosion of the exclusive rights they have purchased, as well as the impact of spillover advertising.

The Task Force suggested that in place of the existing "3+1" policy, the Department of Communications study the feasibility of introducing a new system under which a non-profit corporation, owned jointly by Canada's public and private broadcasters, would clear the distribution rights to American programming in order to retransmit throughout Canada via satellite the programs of the four American networks now made available in Canada by means of microwave relay. The Task Force also suggested that only programming not already purchased on the open market by Canadian broadcasters might have to be so cleared. (The simultaneous substitution rules already in place to protect Canadian broadcasters would be continued or strengthened.) Because the Canadian distribution rights for all American network programming would be held by the new non-profit corporation under this concept, the Task Force went on to suggest that commercials could be eliminated and the non-profit Corporation could be free to sell commercial time to advertisers in Canada, or to make such other use of that air time as it deemed appropriate.

The Committee supports the rationale upon which this proposal is based. As noted below, we have great concerns about the long-run implications of permitting U.S. services and signals to enter Canada on a basis that would lead to the "North Americanization" of program rights. In particular (as discussed later in this chapter) it is crucial for the implementation of Canadian broadcasting policy that current restrictions on such importation, including the substitution rules, be continued and strengthened. At the same time, however, the Committee's preliminary review indicates that a number of practical considerations make the implementation of the Task Force's proposal unlikely. The assumption that Canadian broadcasters have already purchased the necessary rights for certain programs does not appear to be realistic, since such rights do not extend to reruns on a satellite-to-cable service. Also, insofar as direct negotiations to acquire such rights are concerned, these would be rendered impractical because the signal providers (the networks or border stations) do not themselves have the Canadian rights to assign. For these and other reasons, the Task Force proposal would be difficult if not impossible to implement. However, the Committee considers that the issues raised are important and should be subject to further consideration.

8.5.2 Retransmission: Local and Distant Signals

Before addressing the implications of the retransmission right on broadcast licensing policy, some comments are in order with respect to certain issues which the Committee considers relevant to the practical application of such a right.

There is a distinction between local and distant signals. Under the proposed system, the carriage of local broadcast signals by cable television or SMATV systems will not give rise to liability for payment as long as such signals are unaltered and undelayed. Only the importation of distant signals would give rise to an obligation for payment. Clearly, it is critical in this regard that there be a workable definition of the term "local signal". A number of approaches are possible. On the one hand, there is merit in developing a simple definition which is easy to apply; on the other hand, the definition must take into account anomalies which may arise in particular markets. Both approaches present problems.

Most members of the Committee do not have a fixed view as to how such a definition should be structured, but we believe it would be useful to embody the definition in regulations rather than in the act itself, so it can be more readily amended to take practical experience into account.

Recommendation 137

> The definition of a "local" broadcast signal should be left to regulations under the new *Copyright Act*. The definition should be

> able to take into account actual viewing potential using off-air antenna and should not be exclusively based on theoretical criteria.

8.5.3 Retransmission: Small and Isolated Communities

Another issue relates to how retransmission in small and isolated communities should be treated. The government has stated its agreement in principle with the shielding of such systems from any material impact, and the Committee agrees with this approach.

In small and isolated communities, the small size of the system results in higher per-subscriber infrastructure costs than in urban systems. Moreover, the remoteness of the communities means that there are fewer local broadcast signals which can be obtained without payment, therefore the role of the local distribution system becomes more important, because it alone can deliver the distant signals to make up the difference. To the extent such distant signals are national or regional Canadian network signals (which have cleared the rights for the area including the local system) this should also be taken into account.

Given these circumstances, a retransmission royalty rate based on a percentage of subscriber fees would discriminate against small and remote cable subscribers compared with urban cable subscribers. By contrast, a rate based on a flat-fee-per-subscriber would provide a non-discriminatory approach to payment which would be much fairer. The calculation should also take into account any clearances for rights in the local area that have been made with regard to distant Canadian network signals.

Recommendation 138

> The level and structure of royalties for retransmission rights in small and isolated communities should take into account their unique situation, including clearances for distant Canadian network signals, and should not be set on the basis of a percentage of subscriber fees.

8.5.4 Retransmission and Local Market Differentiation

In this section, the Committee wishes to address the implications of the retransmission right for broadcast licensing policy.

Adding a payment system for retransmission will not in any way lessen the need for the CRTC to enhance market exclusivity by means of its regulations and conditions relating to the carriage of distant signals by cable television.

As in the past, it remains important for the CRTC to continue to impose guidelines on the importation of distant signals. Specifically, there should be CRTC guidelines:

- limiting the number of distant signals that may be imported;
- requiring simultaneous substitution of identical programs of lower priority distant signals by higher priority local signals;
- limiting the importation of distant stations which seek to solicit advertising to serve the local market;
- limiting the importation of distant signals from the same network or which have duplicate programs;
- disallowing the importation of distant signals where the originating station objects.

In order to finance high quality Canadian programs, it is also important to maintain market differentiation. If a local station purchases the exclusive rights to a Canadian program, it will generally pay far more than would be paid by a cable system in the same market importing that program pursuant to a compulsory licence. If the effect of the importation is to jeopardize the sale to the local station, because of the loss of an exclusive audience, the overall financing for the program could be affected.

This problem is addressed in part by the simultaneous substitution regulations of the CRTC. However, these regulations do not provide any protection in circumstances where the local version of the program is scheduled at a time different from that of the distant version.

The problem of ensuring territorial exclusivity for Canadian services was solved in a different way by the CRTC in the context of educational programs when it enacted the *Cable Television Regulations, 1986*. Under those Regulations, a cable system is granted the right to carry the signal of a provincial educational service only to the extent that the service is the responsibility of the particular province in which the cable system is located. This rule was implemented in order to maximize the possibility of the same educational program being sold to different educational authorities, e.g. La Chaîne Française and Radio-Quebec, by maintaining the territorial exclusivity of each service. In reaching this decision, the Commission put program considerations ahead of technology, and the Committee considers that this is increasingly the course that should be followed.

The same issue applies in even more critical terms to the importation of American signals. To the extent that such an importation creates pressures to grant "North American" rights to the providers of American signals, it creates grave problems for the Canadian production industry. Canadian programs are valued and sold at much higher licence fees than they would obtain if sold to American networks or broadcasters. Frequently, the licence fee paid by a Canadian network for the Canadian rights to a Canadian program are as much as twice the licence fee paid by an American network, for the same program even though the market in the U.S. is ten times larger.

If the U.S. network is permitted to distribute its signals into Canada without restriction, the Canadian sale may be jeopardized, since the Canadian station cannot count on exclusivity. More seriously, at some point the U.S. network may be led to insist on obtaining both U.S. and Canadian rights for its U.S. programs, thus depriving a comparable Canadian network from acquiring those programs and including them in its schedule.

None of these issues will be resolved by the introduction of a payment for the retransmission of broadcast signals, since such payments will be made on a compulsory licence basis and will not involve market negotiation. Thus, it is crucial that the CRTC be sensitive to the importance of market differentiation for the achievement of the goals of the Canadian broadcasting system, and that appropriate measures be taken to maintain local exclusivity wherever possible.

In this connection, it is interesting to note that on May 18, 1988 the Federal Communications Commission decided to reimpose a requirement (removed in 1980) that cable systems in the United States not import a distant broadcast signal even when done on a compulsory licence basis whenever a program contained in that signal has been acquired for exclusive use by a local broadcaster. This rule is similar to the CRTC rule respecting simultaneous substitution, but applicable as well to programs being shown at different times.

It is difficult to know whether a requirement such as the one recently reimposed by the FCC could now practically be applied to the importation of "3+1" given the viewing patterns which have evolved over time. However, an equivalent rule should definitely be considered for other U.S. program providers, such as the satellite program networks. Because of the problems of increased fragmentation, and the importance of these rights questions (which have not in our view been adequately addressed by the Commission to date) we believe a freeze should be put on the introduction of new U.S. networks until these issues can be resolved. In the meantime, the imposition of meaningful exclusivity rules on the carriage of the U.S. signals currently permitted beyond the "3+1" level should be actively considered by the CRTC.

Recommendation 139

A recognition of the importance of market differentation and the protection of exclusive program rights for the achievement of Canadian broadcasting policy should be codified in section 3 of the *Broadcasting Act*, as part of the broadcasting policy for Canada.

Recommendation 140

The importation of further American satellite services into Canada should not be permitted until a full study is made of the implications of such importation for the financing of Canadian programs, the autonomy of Canadian markets, and the protection of Canadian networks and stations and the rights they wish to acquire.

Recommendation 141

The Commission should strengthen and enhance its program substitution rules so as to protect the exclusivity of the rights held by local Canadian broadcast licensees.

Recommendation 142

The Commission should deny permission to import American signals whenever the signal provider acquires both American and

Canadian rights to its programming and precludes Canadian broadcast licensees from acquiring exclusive Canadian rights to such programs.

9.0 CONCLUSIONS AND SUMMARY OF RECOMMENDATIONS

9.1 Introduction

In the preceding chapters the Committee sets out its recommendations addressing the principal concerns of the Canadian broadcasting system. In determining what we believe to be the shortcomings of the system the Committee drew on the Report of the Task Force on Broadcasting Policy, the extensive input received during our hearings, as well as relevant research studies and expert advice.

The Committee found much to be pleased with in the existing Canadian broadcasting system; but we also found serious deficiencies. Our report has concentrated on those aspects of the system which must be improved. Our recommendations have been affected by our awareness that major changes are occuring which require careful attention. The substantial changes we recommend are intended to ensure that in this transitional period we provide a sound basis for a strong Canadian broadcasting system; one that can and will satisfy the programming needs and interests of Canadians in all regions of Canada, including French and English speaking Canadians, and the native populations in both the north and south. We have addressed the needs of the many minorities that comprise Canada, considering the need to see those minorities reflected in mainstream programming on radio and television as well as through more specialized programming intended specifically to serve these minorities.

The Committee was hampered in its work by the continuing inadequacy of the available data on broadcasting. In Chapter 3 we recommend that the statistical survey of television broadcasters be improved, and that more and better data concerning the community channel on cable television systems be collected. These are only two of the areas in which reliable data are not available to serve as a basis for either developing new public policies or assessing the impact of existing initiatives. The Committee believes that substantial improvements are needed with respect to the gathering of statistical data on the broadcasting system and related sectors such as the sound recording industry and the independent film and television production industry. In strengthening these statistical surveys attention should be focussed on their relevance to public policy issues.

At certain points in this Report the Committee recommends that the CRTC conduct research studies on specific topics or we comment on the unsatisfactory results of the Commission making major licensing and policy decisions based on inadequate independent research. If the performance of the CRTC as the regulatory agency charged with a major role in acheiving the goals of Canadian broadcasting policy is to improve, then the Commission must have the resources it requires to conduct necessary research. We also note that the Commission requires additional resources if it is to make increasing use of conditions of licence appropriate to individual licensees rather the relying mainly on blanket regulations. The Task Force concluded that the CRTC required an additional $5 million to $7 million for this purpose. The Committee agrees that substantial additional resources are required and further notes that the licence fees the CRTC charges its licensees now generate about twice as much revenue for the consolidated revenue fund as the CRTC spends.

Recommendation 143

> The CRTC should be provided with the additional resources it requires to carry out its regulatory functions on the basis of (improved or more adequate) independent research and analysis.

9.2 Trends in Funding Public Agencies and Programs

In Chapter 5 we note our preference to consider issues related to the level of public funding for broadcasting and program production separately from issues related to the allocation of funding. We previously made recommendations involving a substantial reallocation of existing support. Now we turn to the question of the level of support.

Table 9.1 provides data in constant dollars on levels of funding to the cultural agencies involved in broadcasting over the past five years. During that period, the operating appropriation to the CBC declined by 14.8 percent; and its capital appropriation declined by 13.1 percent. As discussed earlier in this report, these reductions have resulted in the suspension of projects to extend CBC service and in sharp reductions of regional broadcasting budgets. However, over the same term the Canadianization of the CBC television networks has continued, in part because of the indirect support provided through Telefilm Canada's Broadcast Fund.

Over the same period the NFB's appropriation declined by eight percent, and the budget of the CRTC dropped by 1.7 percent. By contrast, the budget of Telefilm Canada increased from $45.6 million in constant dollars in 1984-85 to a high of $102.3 million in 1987-88 before dropping back to $86.4 million in 1988-89 — a level 89.4 percent higher than five years earlier. As noted in Chapter 5, the budgets of the NFB and Telefilm Canada will be increased in future years as a result of the May 3, 1988 announcement by the Minister of Communications.

While precise data concerning the cost of the CCA tax incentive (in foregone tax revenue) were not available to the Committee for the period under review, that cost is expected to decline with the reduced incentive now being offered.

Table 9.1 Cultural Agencies Funding in Constant 1984 Dollars, ($ thousands) 1984-85 to 1988-89

	1984-85	1985-86	1986-87	1987-88	1988-89
CBC					
Appropriations:					
Operating	808,450	759,220	722,968	701,115	688,831
Capital	91,777	62,697	63,208	80,314	79,789
Working Capital	4,700	2,404	3,695	3,540	3,404
	904,927	824,321	789,871	784,969	772,074
Revenue	228,463	230,776	245,994	251,768	265,370
TOTAL	**1,133,390**	**1,055,097**	**1,035,865**	**1,036,737**	**1,037,444**
CFDC (Telefilm Canada)					
Budgetary Appropriations	45,572	73,004	79,413	102,341	86,357
Revenue	4,412	3,717	8,557	5,752	6,412
TOTAL	**49,984**	**76,721**	**87,970**	**108,093**	**92,769**
CRTC Appropriations	**25,251**	**24,066**	**24,006**	**24,543**	**24,827**
NFB					
Appropriations	61,487	62,568	56,552	57,330	56,547
Revenue	12,749	13,049	9,596	6,018	5,958
TOTAL	**74,236**	**75,617**	**66,148**	**63,348**	**62,505**

Source: Treasury Board of Canada.

9.3 *Implementation Costs*

In preparing its recommendations the Committee has also considered the additional contribution which the private sector elements of the broadcasting system can, and should, make to achieving the objectives of broadcasting policy. We recommend that both private radio and television broadcasters make a greater contribution; and, in the case of the new satellite-to-cable networks, that payments by cable systems served as a source of part of the funding. We also propose a strengthening of network structures in both radio and television in order to enhance the private sector's capacity to contribute.

There are, however, real limits to the capacity of the private sector to contribute more. Already in private television, public support through Telefilm Canada is covering a large part of the cost of many of the Canadian programs private broadcasters carry in the performance programming category (drama, variety, etc.). Furthermore, the CBC itself accounts for most of the existing expenditures on Canadian television programming and most of the viewing of Canadian programs.

Inescapably, therefore, any effort to strengthen Canadian programming or to respond better to the needs of native Canadians, official language minorities and others must involve public expenditures. In the context of a declining trend in support over the past five years, the proposals we are now presenting risk being seen as unrealistic.

In the case of the CBC we recommend that additional regional programming be undertaken to reflect each region of Canada to itself, noting that the CBC has reduced it's regional program budgets by 28 percent in constant dollars from 1981-82 to 1987-88. We also recommend that the CBC be given additional resources to proceed with a further Canadianization of its television networks.

Our proposal for new alternative programming channels would also be greatly enhanced by $30 million to $40 million in additional funds. Telefilm Canada will also require more funds to keep pace with both private and provincial broadcasters in providing Canadian performance programming.

Throughout this report we have identified wherever possible the estimated costs of implementing our proposals. In some cases these costs are insignificant; in others they are substantial. On a number of important recommendations the Committee does not have the necessary capacity to make precise estimates. Some key recommendations — for example, the proposed increases in regional CBC programming or increased levels of Canadian programming on the CBC networks — can be implemented to a greater or lesser degree. Much more could be put into serving the regions better, or only a moderate amount. Canadian content on the networks could be increased to 85 percent, or to 90 or 95 percent. For all these reasons we have not attempted to put a price tag on implementation; but we believe that a review of the text in most cases provides a clear indication of the likely costs. Clearly, the Committee favours the allocation of the funds required to implement its recommendations.

The difficulty with all proposals for increased government spending is that the federal deficit — while declining — remains large. In that context, the Committee notes that the last substantial public initiative taken in Canadian broadcasting — the establishment of the Broadcast Fund — was accompanied by the imposition of a tax on cable television services which offset the costs. That tax generated $80.8 million in 1987 — considerably more than the amount now being provided through the Broadcast Fund.

The Task Force suggested that its recommendations, which it estimated would involve total annual operating costs to government of between $80 million and $100 million (exclusive of Telefilm costs already covered separately), could be offset through the establishment of a tax of a least five percent on the sale and rental of video cassettes, video cassette recorders, and satellite receiving dishes. The Committee has no objection to this principle of offsetting revenue but notes that the idea must now be considered in the context of tax reform. As noted earlier, a tax on broadcast advertising alone would generate over $150 million. We hope that a substantial share of any such new revenues raised will be put back into the sector.

9.4 *Summary of Recommendations*

Recommendation 1

The CBC should complete its program of replacing private affiliated stations with CBC transmitters in order to help extend the full radio service to all Canadians in accordance with the aims of the *Broadcasting Act*.

Recommendation 2

The CRTC should amend its Cable Television Regulations to require cable systems to carry as a priority the CBC French and English Stereo (FM) signals, as well as CBC French and English Mono signals (AM), along with appropriate subcarriers, regardless of whether these signals are available from a local or regional source, or by satellite.

Recommendation 3

The capital budgets of the CBC should be sufficient to allow the Corporation gradually to extend the transmission of its French and English stereo services.

Recommendation 4

The CBC should continue investigating the possibility of supplying a radio syndication service in Canada, but should not undertake such a project at the expense of existing CBC audiences or budgets.

Recommendation 5

CBC radio stations and networks should be required by the CRTC to meet higher Canadian content requirements than private stations in all music categories, throughout the broadcast day. The CBC should also assist and promote regional talent and performers through its production centres in all regions.

Recommendation 6

The CBC should pursue a more active and integrated policy of support for both Canadian musical composition and performance, encompassing both popular and serious music. The CBC should work closely with Canadian composers, performers, recording companies and support agencies to develop Canadian music.

Recommendation 7

The CBC should seek to strengthen its role in broadcasting radio drama and other performing arts programming, as well as its news coverage of Canadian arts activity. In its programming CBC should better reflect and complement the support provided through other federal and provincial cultural agencies.

Recommendation 8

Funds for CBC radio should be sufficient to allow it to proceed with its proposed storefront strategy, but storefront bureaus should not be used to replace existing CBC radio stations.

Recommendation 9

Continued federal regulation of radio is necessary to ensure diversity, and to promote the use of Canadian creative and journalistic resources. Regulatory tools should be flexible and — through conditions of licence — appropriate to the resources and operating environment of each licensed radio station and network.

Recommendation 10

The present differentiation between AM and FM should be maintained, with close monitoring of the evolution of both services. The status of AM radio in particular should be reviewed periodically. If in the future the CRTC moves to a common policy for AM and FM, there should be no reduction in the diversity of radio programming.

Recommendation 11

The practice of licensing FM stations to broadcast music mainly from only one of a number of musical groups should be maintained for cultural diversity, since it gives FM stations a distinctive sound from one another and from AM stations. But the practice should be flexible enough to reflect the evolution of music and listeners' tastes.

Recommendation 12

The CRTC should drop blanket foreground-format requirements on FM radio, but continue to require foreground programming through conditions of licence tailored to local circumstances. A reasonable share of available resources and air time, consistent with maintaining high quality, should be committed by each FM broadcaster to foreground programming.

Recommendation 13

The CRTC should use conditions of licence to allow broadcasters to offer a service better tailored to their communities, taking into consideration the size of the station, the characteristics of the audience, and the kind of radio services provided.

Recommendation 14

Networks should be encouraged as long as they are Canadian networks. Restrictions will be required to protect Canadian content in network programming, to ensure that network programs do not encroach excessively on local programming, and to ensure that radio networks operate in a way consistent with achieving the objectives proposed for the broadcasting system. CRTC policies affecting syndicated programming should also be designed both to encourage the development and use of Canadian-originated material and to prevent excessive reliance on syndicated foreign programming.

Recommendation 15

The existing Canadian content requirements for non-CBC radio broadcasters should at least be maintained, including the 30 per cent quota for AM licensees. The requirement that Canadian content be evenly spaced during the programming day rather than tucked away in low-listening periods should be firmly applied.

Recommendation 16

Public policy should continue to support the work of FACTOR/CTL and MusicAction, which should continue to be controlled by boards representing the radio and sound recording industries. The CRTC should use conditions of licence to require more adequate funding of these organizations, in line with the individual stations' ability to pay. At the same time, the CRTC should balance this requirement with the continuing obligation of stations to devote resources to the presentation of local talent. The Government should implement measures to expand sound recording policy to include greater assistance to minority types of music.

Recommendation 17

As soon as possible, the CRTC should return to the 65 percent French vocal music requirement for French-language radio stations. In the meantime, the Commission should require stations to apply the interim 55 percent requirement in all periods of the broadcast day, including peak listening time.

Recommendation 18

The CRTC should monitor the impact on radio station advertising revenue of cable advertising or home shopping services permitted by the Commission as non-programming services. It should make provision for a public review of this policy after it has been in place long enough for its impact to be examined.

Recommendation 19

With the exception of public broadcasters, the carriage of American radio stations on Canadian cable services should be prohibited. Carriage of distant Canadian radio stations should be permitted to the extent that they complement the programming available from local broadcasters.

Recommendation 20

The CRTC should simplify the form of logs it requires radio stations to keep, concentrating on the information required to ensure compliance with the regulations and with licence conditions.

Recommendation 21

At this time no action should be taken to establish a focal point in the Department of Communications for the co-ordination of funding, grants and programs related to community broadcasting. Consideration should, however, be given to providing community broadcasting with greater access to appropriate federal training and more general support programs, including those intended primarily for small business. Further study should be done on the appropriate level and nature of federal assistance to community radio, and discussions should take place with the provincial and territorial governments concerning the relative roles of each level of government.

Recommendation 22

The Committee supports the existing CRTC policy with respect to advertising on community radio. The Committee encourages the Commission in its efforts to enforce its overall policy for the development of community radio.

Recommendation 23

An integrated strategy should be established for the financing and development of Canadian-controlled sound recording companies as a more effective vehicle for the production, distribution and marketing of recordings by Canadian song writers, composers and performers.

Recommendation 24

In developing policies to strengthen Canadian content on radio, careful attention should be given to measures which would stimulate the development and use of syndicated programming originated in Canada and which could contribute to achieving the programming objectives contained in the *Broadcasting Act*.

Recommendation 25

Insofar as the CBC does carry foreign programs, it should not be precluded from carrying commercial American programming, provided such programs are of high quality and consistent with the overall character of the CBC service.

Recommendation 26

The CBC should provide with the additional funds required to proceed with a further Canadianization of its network services while maintaining adequate program budgets and without sacrificing service to the regions.

Recommendation 27

The CBC should provide increased air time on its regional stations for carriage of regional programming and should include a significant amount of regional performance programming.

Recommendation 28

The CBC should continue at a minimum to provide locally generated newscasts on its owned and operated stations.

Recommendation 29

The CBC's mandate to serve the needs of all regions of Canada should continue to be interpreted as including the coverage of local news, community events and other appropriate subject matter. There should be no effort to make an artificial distinction between local and regional programming for the purpose of limiting the CBC's role in serving Canadians in all regions.

Recommendation 30

The CBC should be provided with the funds to establish a northern regional television service.

Recommendation 31

Priority should be given to providing a full CBC English-language production centre and broadcasting station in New Brunswick.

Recommendation 32

No prior limits should be placed on the types of programming that can be originated in each of the CBC's English-language and French-language stations. While it must be recognized that staffing levels and facilities will differ significantly from station to station, the CBC should make such decisions, subject to CRTC review and the provision of the required capital funding from the government. Decisions should reflect a balance between a concern with efficiency and the need effectively to fulfil CBC's mandate to reflect and serve all regions of Canada.

Recommendation 33

In its news and information programming CBC should use its resources in a way that will provide as extensive and equitable coverage as possible.

Recommendation 34

CBC French network budgets should be reviewed to establish hourly production costs that reflect the role assigned to the French network in the increasingly competitive television environment, so that the quality of the Canadian programs of the English and French networks would be comparable.

Recommendation 35

The CBC should pursue its policy of cooperation with private producers whereby 50 percent of television programming apart from news, information and sports will be independently produced. It should be understood that the goal is the creation of a diversity of genuinely Canadian programs, not merely pursuit of an industrial policy aimed at fostering the growth of the production industry.

Recommendation 36

The CBC should negotiate with its television affiliates to have them all phase in over time the full network schedule, without time-shifting, for what both sides deem to be reasonable compensation. Whenever an affiliate declines to do so, CBC should consider ensuring distribution by whatever means it sees fit, according to local market conditions.

Recommendation 37

The CBC should make plans for the replacement of those stations that can be disaffiliated to the net financial advantage of the Corporation and can be expected to be viable economically on their own. The CRTC should not allow any transfers of related broadcast licenses pending the resolution of the status of these stations as CBC affiliates after August 31, 1989.

Recommendation 38

The CBC should continue to generate commercial revenue by selling airtime on its television networks.

Recommendation 39

The CBC should insulate production, programming and scheduling decisions from attempts to maximize commercial revenues.

Recommenation 40

The CBC should minimize the disruptive qualities of on-air commercials on programs such as drama or performing arts specials, and exclude or minimize them where appropriate, such as in children's programming.

Recommendation 41

To enhance the capacity of private broadcasters to contribute to the objectives of a new broadcasting act both Bill C-58 and the CRTC policy on simultaneous substitution should at a minimum be retained.

Recommendation 42

The CRTC should develop measures to ensure that its program substitution rules do not reduce the exhibition of Canadian programs in peak viewing time. To achieve this purpose, alternative approaches to protecting the program rights purchased by Canadian broadcasters should be considered.

Recommendation 43

To the extent possible, broadcasting policy and regulation should ensure that foreign programs are distributed in Canada by Canadian television stations holding exhibition rights for the Canadian market, in order to maximize their available resources to present a wide range of Canadian programming and to ensure that they can be an effective advertising vehicle for Canadian businesses.

Recommendation 44

The CRTC should not use conditions of licence to exempt cable systems from the regulation which precludes carriage of American stations which began operation after January 1985, and should review its decision concerning the importation of American superstations in the light of its potential to erode the existence of a separate Canadian television market.

Recommendation 45

The annual statistical survey of Canadian television broadcasters should be amended to provide data on expenditures on Canadian and foreign programming in each program category.

Recommendation 46

The CRTC should give high priority to research examining the impact of market fragmentation on the viewing of existing broadcasters, their revenues, expenditures on Canadian and non-Canadian programming, and profit levels. The Commission should also establish a systematic approach to monitoring the impact of fragmentation. All such Commission research and monitoring studies should be made public, subject to the confidentiality provisions recommended earlier by the Committee in Recommendation 78 of our Sixth Report.

Recommendation 47

The CRTC should shift its emphasis from licensing additional television services to strengthening the capacity of the system to deliver well funded Canadian programs in both French and English.

Recommendation 48

The CRTC should continue to recognize the basic importance of local television programming and pursue policies designed to avoid or minimize threats to local television stations and local programming. Policies that will tend to transform local independent stations whether Canadian or non-Canadian into regional or national superstations should therefore be avoided.

Recommendation 49

The CRTC should consider allowing existing local broadcasters to become new "twin" or "triple" stick operators rather than allowing distant Canadian signals into local markets if they threaten the viability of local broadcasters.

Recommendation 50

In communities where no local television service is now provided, the Committee concurs with the proposal to allow the importation of distant signals either by way of cable or low-power, off-air rebroadcasting transmitters where frequencies are available.

Recommendation 51

The CRTC should continue to require the licensees to make a contribution to local programming consistent with their financial capacity as well as an appropriate contribution to meeting the broader Canadian programming objectives of the whole system.

Recommendation 52

The CRTC should continue in its policies related to the CTV network and its affiliate stations to pursue the intent of the Task Force recommendation, strengthening the network's ability to provide Canadian programming at the national level.

Recommendation 53

Prompt action should be taken to examine the feasibility and potential benefits of a third national English-language television network, through both a call for proposals or applications for a third network and the initiation of a study to examine precisely what options are realistic and to explore the benefits and disadvantages of each.

Recommendation 54

The CRTC should commission a study of the TVA, Quatre Saisons and Pathonic network structures to see whether changes are desirable which would enhance the ability of conventional French-language television to provide the high quality Canadian programs required in an increasingly competitive market.

Recommendation 55

The government of Canada should normally place its commercials on domestic television programs.

Recommendation 56

If a decision is made in the context of tax reform to impose a tax on broadcast advertising, its impact should be partially offset through a targetted tax incentive which would complement and reflect the objectives being pursued through the Broadcast Fund.

Recommendation 57

Private television stations and networks must be required to commit greater resources to Canadian programs. The CRTC should use conditions of licence to require that stations and networks make expenditures for internal production of, or acquisition of the right to exhibit, Canadian programs consistent with their financial and other resources.

Recommendation 58

The CRTC should ensure that the productions private broadcasters telecast to meet their Canadian content requirements are of high quality and include a substantial proportion of programs in the categories now most inadequately represented on private Canadian television.

Recommendation 59

The CRTC must ensure that its definition of a Canadian program will result in Canadian performance programming that reflects the objectives of Canadian broadcasting policy as stated in the *Broadcasting Act*.

Recommendation 60

The CRTC should, for conventional off-air broadcasters, maintain the requirement that 60 percent of all programming and 50 percent of the programming scheduled between 6 p.m. and midnight must be Canadian.

Recommendation 61

If additional mechanisms are adopted to regulate Canadian content on private television, the approach taken should be to make provision in the act for the CRTC to take such action, and any new approach should include a continuation of existing quantitative Canadian content requirements. Before implementing an alternative approach based on licence or performance fees a full public hearing should be held.

Recommendation 62

In setting Canadian content requirements for the next licence renewal term, the CRTC should consider the contribution that pay operators can reasonably and realistically make as their subscription bases expand. Careful consideration should also be given to the question of whether this contribution should be made by licence fees or through a combination of licence fees and equity investment.

Recommendation 63

The CRTC conditions of licence for pay television services should ensure the exhibition of most Canadian feature films being produced. In this connection, Canadian film production levels should be monitored to determine whether adjustments are appropriate, and provisions for adjustments should be made in the conditions of licence.

Recommendation 64

The CRTC should continue to prohibit the importation of American pay television services which compete directly with, and will directly affect the viability of comparable Canadian services.

Recommendation 65

The Commission should closely monitor the effect of the introduction of the new specialty services on conventional broadcasters, particularly with regard to fragmenting audience.

Recommendation 66

The Commission should ensure that the specialty services scrupulously adhere to conditions of licence limiting their programming to the specialty categories they have chosen and that such programming not be allowed to overlap with conventional broadcasting.

Recommendation 67

The Commission should be prepared to take appropriate action if cable television licensees deny access to specialty services on grounds that are discriminatory or not in the public interest.

Recommendation 68

As recommended in the Committee's Sixth Report, new broadcasting legislation should contain a provision that would not permit the licensing of pay or specialty services owned by, or in common ownership with distribution undertakings. [See Appendix VI, Recommendation 51.]

Recommendation 69

The Commission should review the extent of the implementation of "extended basic" tiers which include American specialty services and, further, should prohibit the distribution of such services on that basis if the "extended basic" approach materially expands access by such non-Canadian services to Canadian homes.

Recommendation 70

The Commission should review the program rights questions that arise with the introduction of American satellite services, taking into account the recommendations on copyright and licensing policy in Chapter 8.

Recommendation 71

Pay-per-view sytems should not be licensed by the Commission unless they can be shown to provide positive benefits to the Canadian broadcasting system.

Recommendation 72

The preferred structure for pay-per-view systems should be on the basis of satellite-to-cable delivery provided by a national network licensee with the ability to serve the DTH and SMATV markets as well.

Recommendation 73

As recommended in our Sixth Report, cable television systems or other local distribution systems should not have an ownership interest in, or be in common ownership with, the pay-per-view network licensee.

Recommendation 74

Any structure developed for pay-per-view services should maximize the contribution to Canadian content, and minimize any adverse impact on pay-per-channel penetration.

Recommendation 75

The existing pay-per-channel services should not be precluded from being part of the ownership structure of a pay-per-view network; however, if this is the case, the rules requiring such services to obtain all of their programming on a non-discriminatory basis from the independent production industry should be strengthened.

Recommendation 76

The CRTC should develop a set of rules for reporting expenditures on the community channel. Cable system operators should be required to submit this information as part of the annual statistical survey administered by Statistics Canada.

Recommendation 77

In its policy review of community television the CRTC should address the issue of incorporating into regulation the expectation that cable systems operators will give material support to the community channel. The Commission should also determine whether it is practical to make this expectation more precise.

Recommendation 78

In its policy review of community television the CRTC should address the issue of advertising revenues. In particular, the Commission could consider ways to ensure that advertising revenues serve to increase support for the community channel rather than simply replace revenues from subscribers; the Commission could consider whether smaller systems should have greater access to ad revenues; finally, the Commission could consider the implications of cable operators choosing to promote advertising on the advertising channel rather than sponsorship or contra deals on the community channel.

Recommendation 79

We see no need for federal/provincial consultations on the development of community television.

Recommendation 80

The CRTC should proceed as soon as possible with an examination of issues and concerns related to providing equitable community access to community broadcasting services.

Recommendation 81

In the event that high definition television is introduced, every effort should be made to try to provide delivery over the air in order to integrate this new service fully into the Canadian broadcasting system. Spectrum at present assigned to broadcasting in the VHF and UHF bands should therefore be reserved for that purpose and not shared with other potential users.

Recommendation 82

In the public hearing on the 1990 renewal of the Cancom licence, the CRTC should return to the goals originally established for providing satellite service to Canadians in remote and underserved communities and examine the extent to which these are being met. These objectives should be identified by the Commission in its call for public comment. In its licence renewal decision additional conditions should be attached to the Cancom licence which are both pratical and more consistent with the original goals.

Recommendation 83

In advance of the next licence renewal hearing for Cancom, the CRTC should prepare and make public its own evidence and independent research on whether Cancom has fragmented audiences, and affected the revenues of licensed Canadian broadcasters.

Recommendation 84

The Committee endorses the Task Force recommendation that action should be taken to reduce the cost of Cancom's service to the remote and underserved communities that constitute its core market.

Recommendation 85

Direct financial assitance should be provided to reduce the costs of receiving Canadian broadcasting signals in remote and underserved communities.

Recommendation 86

The Ministers of Communication and Finance should consult to find a suitable tax amendment to exempt all small cable systems from the Federal Telecommunication Programming Services Tax.

Recommendation 87

Subscribers to Canadian direct-to-home satellite services should be exempt from the Federal Telecommunication Programming Services Tax, just as subscribers to small cable systems are exempt.

Recommendation 88

The CRTC should conduct wide-ranging public hearings into the Task Force recommendations 25.1, 25.2 and 26.4, and issue a report to the Minister of Communications.

Recommendation 89

Canada should reject "first come, first served' as a basis for licensing multichannel, multipoint distribution services (MMDS) that overlap the Canada-United States border. The two countries should agree on arrangements that either restrict the range of MMDS signals to their respective countries, or follow the historic principle of awarding a fair share of frequencies to each country.

Recommendation 90

The Government should use its offices, including the power of direction to the CRTC proposed for inclusion in the new Broadcasting Act, to foster co-ordinated and complementary efforts among groups interested in developing distribution technology to further the objectives of the Canadian broadcasting system. Consultation and public participation, including CRTC hearings and review by the appropriate Parliamentary committee, should be part of the process.

Recommendation 91

Common carriers should not be allowed to hold broadcasting transmitting or broadcasting distributing licences, either directly or through affiliates.

Recommendation 92

The CBC should be required to prepare a multi-year corporate plan setting out the Corporation's long-term objectives, priorities and intended use of financial resources. This plan should be formally tabled in Parliament and referred to the appropriate committee for comment. It should become the basis for a five-year funding-intention decision by government and should provide the resource framework within which the CBC's licence renewal applications to the CRTC are prepared.

Recommendation 93

Comprehensive audits of the CBC by the Auditor General should be required at least every five years and be tabled in Parliament and referred to the appropriate committee for study. The review of CBC's annual estimates should be used as a regular opportunity for Parliament to examine the degree to which any concerns identified in the comprehensive audit are being addressed.

Recommendation 94

Clearer and more detailed information should be provided to Parliament in the annual Estimates for the CBC, and the CBC's annual reports to Parliament should note and explain any changes in its allocation of resources from that proposed in the Estimates. Separate votes should be considered for major areas of CBC expenditure to reflect the Corporation's chief operating divisions and activities.

Recommendation 95

The CBC should review its internal operating and reporting structure, with a view to greater delegation of authority and the enhancing of its level of efficiency.

Recommendation 96

The CBC should establish an independent committee to review and propose corrective measures with respect to complaints and comments from the public regarding its news and information programming.

Recommendation 97

The government should establish a committee of inquiry into CBC labour-management relations with a comprehensive mandate to identify and make recommendations about obstacles to the efficient and harmonious operation of the Corporation.

Recommendation 98

As soon as a new broadcasting act has been passed, legislation should formally establish Telefilm Canada as an arm's length agency of government and provide it with a mandate on which to base its administration of the Broadcast Fund. The legislation should make it clear that Telefilm Canada's support for television programming has as its objective the furthering of the goals of the broadcasting act through increased production of television programs made under the creative control of Canadians and intended primarily for Canadian audiences.

Recommendation 99

The *National Film Act* should not be amended, as the Task Force proposed, to extend the Film Board's mandate to broadcasting. However, the Board's mandate as a producer should be amended to apply to videotape or other technical means for producing visual images, as well as to film.

Recommendation 100

New satellite-to-cable broadcasting services should be created on a not-for-profit basis. These would be predominantly Canadian in content and character and would in their programming emphasize productions from all regions of Canada, and would provide high quality Canadian programming in program areas not now well served by existing services, including the performing arts. In the case of the French-language service, the option of increasing the proportion of Canadian programming on TV-5 should be considered as an alternative to creating a new service.

The services should be funded by a reallocation of funds from the NFB and Telefilm Canada and a per-subscriber charge to cable system operators of at least $.60 the first year, $.80 the second, and $1.00 the third, with subsequent adjustments for inflation. The cost should include both the French- and English-language services. The service in the language of the majority should be carried on basic service in systems which carry at least one other licensed specialty service on basic service. Since a substantial portion of the funding for these services will be provided by the federal government, they should operate under a structure which can ensure full accountability for the use of the public funds involved.

Recommendation 101

Rather than providing money separately to both the CBC and Telefilm Canada to assist in financing the same independent productions to be shown on the CBC, the combined amounts (including administrative savings) should be made available to the CBC on the provision that this funding be used only to acquire the right to exhibit independent Canadian productions. The amount provided would include both the amount the CBC now spends on such productions plus half of the total funds now included in the Broadcast Fund of Telefilm Canada (CFDC). The total amount should rise in future years to keep pace with increases in the Broadcast Fund.

Recommendation 102

The Guidelines for the operation of the Broadcast Fund should help achieve the goal of a sound domestic market for indigenous production. Broadcast Fund involvement in television production should be altered so that support will be provided principally in the form of matching licence fee payments made by Canadian broadcasters. Support from the Fund should be provided principally to programs made primarily for Canadians by Canadians, and based on the expectation that such productions must recover most of their revenues in the Canadian market.

Recommendation 103

In future, support through the Broadcast Fund for programs designed primarily for sale in foreign markets should be provided on the basis of profit-motivated investment, and the Fund's involvement in such projects should not account for a major portion of expenditures.

Recommendation 104

Telefilm should determine that projects supported by the Broadcast Fund are consistent with its mandate and eligibility criteria, and that those projects have the required commitment from a Canadian broadcaster to exhibit them. Creative control shall rest with the producer, subject only to the terms of the producer's agreement with the broadcaster.

Recommendation 105

Effective incentives should be provided in the tax system to promote investment in Canadian films and videotapes, sound recordings and syndicated audio programming. The incentives established should reflect Canadian cultural objectives.

Recommendation 106

The CBC should develop a long-term plan in consultation with the native population to accommodate its new responsibilities regarding the provision of aboriginal language services throughout Canada. The plan should include operational and management structures to accommodate this new responsibility.

The CBC should be given a special parliamentary appropriation to implement its plan, once it is approved.

The first priority of the CBC in relation to its native languages mandate should be to improve access for independent native language producers in all regions of Canada.

Recommendation 107

The CBC should serve as the principal vehicle for the distribution of aboriginal language programming in regions throughout Canada.

Recommendation 108

The CBC should put in place a satellite distribution system dedicated to serving northern Canada. It should include additional ground stations and second transmitters where necessary, in order to accommodate increased levels of CBC northern regional programming and native language access programming.

Recommendation 109

Where possible, the CBC satellite distribution system dedicated to serving Canada's northern regions should accommodate the distribution requirements of native communication societies, including those located in the northern regions of the provinces. Funding for the installation of ground facilities should be made available in order to accomplish this objective.

Recommendation 110

The CBC should give special consideration to serving isolated aboriginal communities that request service, regardless of size, and its appropriation for capital expenditures should reflect the special needs of such communities for broadcasting service.

Recommendation 111

Other elements of the Canadian broadcasting system should also provide for the distribution of native programming, including programming in aboriginal languages, where that is appropriate and there is sufficient demand.

Recommendation 112

A general policy of native broadcasting should be established for the entire country. The federal government should consult with native people throughout Canada in the development of this policy. Representative native organizations should be given funding to conduct their own research in the regions and centres where native broadcasting needs and priorities have not been established.

Production funding should be provided to independent native communications societies in communities and regions where no native services currently exist. The funding should come from new sources so as not to diminish existing programs supporting native broadcasting in the North. Priority should be given to funding broadcasting services in aboriginal languages.

Recommendation 113

The criteria of existing federal programs supporting native broadcasting should be amended to allow for increased subsidies for native community radio. Any new federal program supporting native communications should include assistance for native community radio.

Recommendation 114

All programs in support of native broadcasting should be evaluated on a regular basis to ensure that the language and cultural goals of the programs are met.

The CRTC and the Secretary of State should ensure that native broadcasters produce distinctive programming that does not unfairly compete with private broadcasters serving the same market.

Recommendation 115

The federal government should ensure sufficient resources are made available to meet the present and future training requirements of the native broadcasting sector.

Recommendation 116

The CRTC should not exempt cable systems from its cable regulations related to the carriage of public broadcasting services when the result is reduced availability of public broadcasting services in their own language to significant official language minority communities. Furthermore, the CRTC should not permit the carriage of non-programming services to receive priority over carriage of Canadian programming services whose carriage is required under the regulations.

Recommendation 117

The Minister of Communications and the Government should establish a program of direct support to make a reasonable variety of French-language broadcasting signals available by satellite across the country.

Recommendation 118

In conjunction with the provision of selective government financial assistance toward the cost of satellite distribution, the CRTC should review its policies on the carriage of broadcasting services on cable for the purpose of establishing a reasonable level of choice for official language minority communities. As part of the review process, the Commission should hold a public hearing and should carry out any research that may be helpful. The result should be incorporated into a CRTC policy statement on service to official language minorities.

Recommendation 119

The necessary measures should be taken by the CRTC and the CBC itself to provide improved CBC service to both anglophone and francophone minority communities across Canada.

Recommendation 120

We endorse the Task Force recommendation that the CBC should provide access, when circumstances permit, to official-language- minority community broadcasters.

Recommendation 121

The CBC should, at regular intervals, prepare a plan setting out the goals the Corporation intends to achieve with respect to the representation and fair portrayal of multicultural minorities on its English and French radio and television stations and networks. A timetable for the implementation of these goals should also be made available. The public should have access to this plan.

Recommendation 122

We encourage the Department of the Secretary of State in its efforts to promote the discussion and cooperation necessary to implement multiculturalism in mainstream broadcasting.

Recommendation 123

The CRTC should encourage the Canadian Association of Broadcasters to develop an acceptable set of guidelines relating to the representation, fair portrayal and stereotyping of minorities as soon as possible. The CRTC should ensure adherence to these guidelines by means of conditions of licence, where appropriate.

Recommendation 124

The Committee rejects the Task Force recommendation to license groups who are not broadcasters for the purpose of brokerage. The Committee supports the development of an industry code for brokerage, as currently proposed by the CRTC.

Recommendation 125

Before licensing any new national satellite network providing ethnocultural programming, the CRTC should commission a comprehensive study of ethnocultural broadcasting. The scope of the study should include an examination of existing ethnic stations and networks, consideration of options for and the impact of a new national ethnic channel on existing and proposed ethnic services and on other non-ethnic broadcasters. The emphasis should be on economic feasibility and on determining the licensing policy and broadcasting structure most likely to maximize the contribution ethnic services can make to achieving the goals of Canadian broadcasting, including the provision of Canadian programming for ethnocultural groups in Canada.

Recommendation 126

The Committee concurs with the CRTC's plan to review the issue of access by ethnocultural minority groups to community broadcasting outlets and encourages the Commission to ensure fair and reasonable access.

Recommendation 127

Within five years, 50 percent of all network programming on conventional television networks, including 50 percent of Canadian programs, should be available with closed captioning.

Recommendation 128

Productions financed in whole or in part by Telefilm or the National Film Board for broadcast in Canada should be captioned.

Recommendation 129

At the forthcoming hearings on renewal of licences for individual television stations, the CRTC should give particular attention to obtaining commitments for the captioning of local programming, particularly news shows, where it is feasible.

Recommendation 130

Efforts should be made to reduce the cost of decoders, and to increase their availability to low-income users.

Recommendation 131

The government should clarify the provisions of its directive on Canadian ownership and control of broadcasting undertakings, particularly the requirements related to paid-up capital, in order to ensure that the directive is clear and effectively achieves its purpose of ensuring both ownership and control by Canadians.

Recommendation 132

The CRTC should immediately start a process of preparing general policy and specific guidelines on ownership and corporate concentration in broadcasting. This should include research studies and, following their publication, public hearings. The inquiry, which could be conducted through a special CRTC committee, should examine issues of concern to broadcasting arising from concentration within media, across media, between media and non-media interests, and of vertical integration of ownership of successive stages in production, programming and distribution.

Recommendation 133

Attention should be given to the possibility of limiting broadcast owners to a certain share of market, but whatever guidelines are used, they must take into account the distinct needs of the French-language and English-language markets.

Recommendation 134

The principle of independent protection for sound recordings as a category distinct from the original works they contain should be recognized in the *Copyright Act*.

Recommendation 135

The right of performers over their performances of a creative work should be recognized in the *Copyright Act*.

Recommendation 136

An ephemeral recording exception should be provided in the *Copyright Act* to cover the making of recordings by broadcasters who have obtained the right to broadcast such works for the following purposes: time zone requirements, compliance with CRTC regulations, archival considerations, and, at least with regard to sound recordings, for the pre-recording of works for later transmission.

Recommendation 137

The definition of a “local” broadcast signal should be left to regulations under the new *Copyright Act*. The definition should be able to take into account actual viewing potential using off-air antenna and should not be exclusively based on theoretical criteria.

Recommendation 138

The level and structure of royalties for retransmission rights in small and isolated communities should take into account their unique situation, including clearances for distant Canadian network signals, and should not be set on the basis of a percentage of subscriber fees.

Recommendation 139

A recognition of the importance of market differentation and the protection of exclusive program rights for the achievement of Canadian broadcasting policy should be codified in section 3 of the *Broadcasting Act*, as part of the broadcasting policy for Canada.

Recommendation 140

The importation of further American satellite services into Canada should not be permitted until a full study is made of the implications of such importation for the financing of Canadian programs, the autonomy of Canadian markets, and the protection of Canadian networks and stations and the rights they wish to acquire.

Recommendation 141

The Commission should strengthen and enhance its program substitution rules so as to protect the exclusivity of the rights held by local Canadian broadcast licensees.

Recommendation 142

The Commission should deny permission to import American signals whenever the signal provider acquires both American and Canadian rights to its programming and precludes Canadian broadcast licensees from acquiring exclusive Canadian rights to such programs.

Recommendation 143

The CRTC should be provided with the additional resources it requires to carry out its regulatory functions on the basis of (improved or more adequate) independent research and analysis.

APPENDIX I

ORDER OF REFERENCE

Thursday, January 29, 1987

ORDERED,—That the document entitled "Report of the Task Force on Broadcasting Policy", tabled earlier this day (Sessional Paper No. 332-4/14), be referred to the Standing Committee on Communications and Culture for study;

That the Committee be authorized to travel from place to place inside Canada; and

That the Committee report its findings and recommendations on all matters relevant to the development of broadcasting legislation no later than April 15, 1987.

ATTEST

MICHAEL B. KIRBY

For the Clerk of the House of Commons

APPENDIX II

LIST OF WITNESSES

ORGANIZATIONS AND/OR INDIVIDUALS	ISSUE	DATE
Alberta Broadcasting Corporation	43	May 26, 1987
Alberta Educational Communications Authority (Access Network)	43	May 26, 1987
Allarcom Limited	43	May 26, 1987
Alliance of Canadian Cinema, Television and Radio Artists (Toronto)	64	November 3, 1987
Alliance of Cinema, Television and Radio Artists (ACTRA) (Saskatoon)	44	May 27, 1987
Alliance of Cinema, Television and Radio Artists (ACTRA) (Winnipeg)	45	May 28, 1987
Alliance of Cinema, Television and Radio Artists (ACTRA) (St. John's)	46	June 1, 1987
American Federation of Musicians of the United States and Canada	66	November 5, 1987
Association canadienne de la radio et de la télévision de langue française	62	October 21, 1987
Association canadienne-française de l'Alberta	43	May 26, 1987
Association canadienne-française de l'Ontario (Windsor)	53	September 15, 1987
Association canadienne-française de l'Ontario (Toronto)	64	November 3, 1987
Association culturelle franco-canadienne de la Saskatchewan	44	May 27, 1987
Association des câblodistributeurs du Québec, Inc.	61	October 20, 1987
Association des Franco-Yukonnais	51	June 19, 1987

ORGANIZATIONS AND/OR INDIVIDUALS	ISSUE	DATE
Association des francophones du nord-ouest de l'Ontario	55	September 17, 1987
Association des producteurs de films et vidéos du Québec	61	October 20, 1987
Association des programmateurs de la télédistribution du Québec	61	October 20, 1987
Association des radiodiffuseurs communautaires du Québec	62	October 21, 1987
Association du disque et de l'industrie du spectacle et vidéo québécois (ADISQ)	69	November 24, 1987
Association national des téléspectateurs	61	October 20, 1987
Association of Canadian Advertisers Incorporated	65	November 4, 1987
Association of Canadian Film and Television Producers	65	November 4, 1987
Association of Television Producers and Directors (Toronto)	64	November 3, 1987
Atikamekw-Montagnais Communication Company	57	October 8, 1987
Atlantic Independent Film and Video Association	47	June 2, 1987
Avalon Cablevision Limited	46	June 1, 1987
Blue Water Broadcasting Limited	53	September 15, 1987
Brentwood Recreation Association	47	June 2, 1987
British Columbia Association of Broadcasters	50	June 18, 1987
British Columbia Association of Indian Friendship Centres	51	June 19, 1987
British Columbia Film and Video Industry Association	50	June 18, 1987
British Columbia Public Interest Advocacy Centre	50	June 18, 1987
Cable Service Limited	48	June 3, 1987
Cable Television Association of Alberta	43	May 26, 1987

ORGANIZATIONS AND/OR INDIVIDUALS	ISSUE	DATE
Canada Council	68	November 18, 1987
Canadian Association for Adult Education	64	November 3, 1987
Canadian Association of Broadcasters	69	November 24, 1987
Canadian Association of the Deaf	59	October 14, 1987
Canadian Authors Association	50	June 18, 1987
Canadian Broadcasting Corporation (Montreal)	63	October 22, 1987
Canadian Broadcasting Corporation (Chicoutimi)	57	October 8, 1987
Canadian Broadcasting Corporation (Thunder Bay)	55	September 17, 1987
Canadian Broadcasting Corporation (London)	54	September 16, 1987
Canadian Broadcasting Corporation (English Radio—Toronto)	65	November 4, 1987
Canadian Broadcasting Corporation (English Services—Quebec City)	58	October 9, 1987
Canadian Broadcasting Corporation (English Services—Windsor)	53	September 15, 1987
Canadian Broadcasting Corporation (English Television—Toronto)	65	November 4, 1987
Canadian Broadcasting Corporation (French Radio Network—Montreal)	62	October 21, 1987
Canadian Broadcasting Corporation (French Services—Quebec City)	58	October 9, 1987
Canadian Broadcasting Corporation (French Services—Windsor)	53	September 15, 1987
Canadian Broadcasting Corporation (French TV Network—Montreal)	62	October 21, 1987
Canadian Broadcasting Corporation New Brunswick	48	June 3, 1987
Canadian Broadcasting Corporation Northern Services	44	May 27, 1987

ORGANIZATIONS AND/OR INDIVIDUALS	ISSUE	DATE
Canadian Broadcasting Corporation Regional Office (St.John's)	46	June 1, 1987
Canadian Broadcasting Corporation Regional Office (Halifax)	47	June 2, 1987
Canadian Broadcasting Corporation Regional Office—English Services (Edmonton)	43	May 26, 1987
Canadian Broadcasting Corporation Regional Office—English Services (Saskatoon)	44	May 27, 1987
Canadian Broadcasting Corporation Regional Office—English Services (Vancouver)	51	June 19, 1987
Canadian Broadcasting Corporation Regional Office—English Services (Winnipeg)	45	May 28, 1987
Canadian Broadcasting Corporation Regional Office—French Services (Edmonton)	43	May 26, 1987
Canadian Broadcasting Corporation Regional Office—French Services (Vancouver)	51	June 19, 1987
Canadian Broadcasting Corporation Regional Office—French Services (Saskatoon)	44	May 27, 1987
Canadian Broadcasting Corporation Regional Office—French Services (Winnipeg)	45	May 28, 1987
Canadian Broadcasting Corporation Television Network Advisory Committee	63	October 22, 1987
Canadian Broadcasting League	60	October 15, 1987
Canadian Cable Television Association	69	November 24, 1987
Canadian Cable Television Association (B.C. Yukon Region)	50	June 18, 1987

ORGANIZATIONS AND/OR INDIVIDUALS	ISSUE	DATE
Canadian Captioning Development Agency	64	November 3, 1987
Canadian Conference of the Arts	67	November 17, 1987
Canadian Council of Ethnic Broadcasting	57	October 8, 1987
Canadian Council on Children and Youth	60	October 15, 1987
Canadian Daily Newspaper Publisher's Association	65	November 4, 1987
Canadian Film and Television Association	64	November 3, 1987
Canadian Independent Record Production Association	66	November 5, 1987
Canadian League of Composers	66	November 5, 1987
Canadian Media Directors' Council	66	November 5, 1987
Canadian Motion Picture Distributors Association	65	November 4, 1987
Canadian Music Centre	66	November 5, 1987
Canadian Radio-television Telecommunications Commission	72	December 15, 1987
Canadian Recording Industry Association	66	November 5, 1987
Canadian Satellite Communications Inc. (Cancom)	59	October 14, 1987
Canadian Television Producers and Directors Association (Winnipeg)	45	May 28, 1987
Canadian Television Producers and Directors Association (Ottawa)	67	November 17, 1987
Canadian Television Producers and Directors Association (St. John's)	46	June 1, 1987
Canadian Television Producers and Directors Association (Halifax/Sydney Branch)	47	June 2, 1987
Canadian Television Producers and Directors Association (Edmonton Chapter)	43	May 26, 1987

ORGANIZATIONS AND/OR INDIVIDUALS	ISSUE	DATE
Canadian Union of Public Employees	46	June 1, 1987
Canadian Union of Public Employees (Broadcast Council)	64	November 3, 1987
Canwest Broadcasting Incorporated	45	May 28, 1987
Cape Breton Cablevision Limited	47	June 2, 1987
Caplan, Gerald	58	October 9, 1987
CARFAC	48	June 3, 1987
Cartel intersyndical des employés de la Société Radio-Canada	61	October 20, 1987
Cathay International Television Incorporated	50	June 18, 1987
CFPL Broadcasting Limited	54	September 16, 1987
Children's Broadcast Institute	64	November 3, 1987
CHUM Group Radio	53	September 15, 1987
CHUM Limited	65	November 4, 1987
Cinetron Communications Incorporated	43	May 26, 1987
City of Thunder Bay	55	September 17, 1987
CJCD Radio	43	May 26, 1987
CJFI Radio	53	September 15, 1987
CJPM-TV Inc.	57	October 8, 1987
CKO Incorporated	54	September 16, 1987
CKUM-MF (Moncton)	48	June 3, 1987
COGECO Group	61	October 20, 1987
Collège d'enseignement général et professionnel de Jonquière	57	October 6, 1987
Communications Radio-Mutuelle Inc.	62	October 21, 1987
Community Radio Society of Saskatoon	44	May 27, 1987
Conseil des usagers des médias de la Sagamie	57	October 8, 1987
Consumers' Association of Canada	60	October 15, 1987
Cooperative of Community Television Services	44	May 27, 1987

ORGANIZATIONS AND/OR INDIVIDUALS	ISSUE	DATE
Cowichan Cablesystems Limited	50	June 18, 1987
CTV Television Network Ltd.	64	November 3, 1987
CUC Limited (Windsor)	53	September 15, 1987
CUC Limited (Toronto)	66	November 5, 1987
Donham, Parker Barss	47	June 2, 1987
Drew Marketing Limited	50	June 18, 1987
Entreprises de radiodiffusion de la capitale Inc.	58	October 9, 1987
Epp, Ernie M.P.	55	September 17, 1987
Fanshawe College	54	September 16, 1987
Fédération acadienne de la Nouvelle-Écosse	47	June 2, 1987
Fédération des Franco-Colombiens	50	June 18, 1987
Fédération des Francophones hors Québec	61	October 20, 1987
Federation of Saskatchewan Indian Nation	44	May 27, 1987
Fédération profes. des réalisateurs et réalisatrices de télé. et de cinéma	63	October 22, 1987
Film and Video Arts Society of Alberta	43	May 26, 1987
First Choice Canadian Communications Corporation	65	November 4, 1987
Friends of Public Broadcasting	64	November 3, 1987
General and Vocation College of Jonquière	57	October 8, 1987
Global Television	66	November 5, 1987
Glomma Cablevision Limited	43	May 26, 1987
Golden West Broadcasting Limited	45	May 28, 1987
Government of Manitoba—Department of Communications	45	May 28, 1987
Government of Northwest Territories	43 & 67	May 26 and Novem
Government of Nova Scotia	47	June 2, 1987
Government of Ontario	64	November 3, 1987

ORGANIZATIONS AND/OR INDIVIDUALS	ISSUE	DATE
Government of Saskatchewan—Department of Communications	44	May 27, 1987
Greater Winnipeg Cable Vision (Cablecasting Limited)	45	May 28, 1987
Groupe Vidéotron Ltée	62	October 21, 1987
GVDA Closed Captioned Committee	50	June 18, 1987
Halifax Cablevision	47	June 2, 1987
Hampton, Howard M.P.P.,	55	September 17, 1987
Hatfield, Percy	53	September 15, 1987
Henson College, Dalhousie University	47	June 2, 1987
Heritage Christian Ministries	43	May 26, 1987
H.F. Dougall Company Limited	55	September 17, 1987
Institut canadien d'éducation des adultes	61	October 20, 1987
Inuit Broadcasting Corporation	67	November 17, 1987
KATIP AIM Media Production Limited	44	May 27, 1987
King Motion Picture Corporation	43	May 26, 1987
Kings Kable Systems	47	June 2, 1987
Knowledge Network of the West Communications Authority	50	June 18, 1987
Leader Broadcasting Corporation Limited	55	September 17, 1987
Leader of the Nova Scotia New Democratic Party	47	June 2, 1987
MacLean Hunter Cable TV	66	November 5, 1987
MacLean Hunter Limited	65	November 4, 1987
Manitoba Film Producers Association	45	May 28, 1987
Manitoba Intercultural Council	45	May 28, 1987

ORGANIZATIONS AND/OR INDIVIDUALS	ISSUE	DATE
Memorial University of Newfoundland	46	June 1, 1987
MHA Newfoundland Government	46	June 1, 1987
Missinipi Broadcasting	44	May 27, 1987
Mountain View Cablevision Limited	43	May 26, 1987
Multicultural Association of Northwestern Ontario	55	September 17, 1987
Multiculturalism Association of Greater Moncton	48	June 3, 1987
National Aboriginal Communications Society	67	November 17, 1987
National Advisory Committee of CBC Affiliates	63	Montreal, Quebec
National Association of Broadcast Employees and Technicians (Windsor)	53	September 15, 1987
National Association of Broadcast Employees and Technicians (Toronto)	64	November 3, 1987
National Committee for Independent Canadian Unions	65	November 4, 1987
National Federation of Communication Workers	61	October 20, 1987
National Film Board	61	October 20, 1987
National Gallery of Canada	60	October 15, 1987
National Radio Producers Association	66	November 5, 1987
National Watch on Images of Women in the Media Incorporated	50	June 18, 1987
Native Communication Communities—Western NWT	43	May 26, 1987
Native Communications Incorporated	45	May 28, 1987
New Brunswick Broadcasting Co. Limited	63	October 22, 1987

ORGANIZATIONS AND/OR INDIVIDUALS	ISSUE	DATE
New Brunswick Filmmakers' Co-operative Limited	48	June 3, 1987
New Democrat Office (Official Opposition)	43	May 26, 1987
Newfoundland Broadcasting Corporation	46	June 1, 1987
North Eastern Cablevision Limited	44	May 27, 1987
North West Media Network	43	May 26, 1987
Northern Alberta Performers Guild (ACTRA)	43	May 26, 1987
Nova Scotia Coalition on Arts and Culture	47	June 2, 1987
Office of the Commissioner of Official Languages	69	November 24, 1987
OKALAKATIGET Society	46	June 1, 1987
Ontario Cable Telecommunications Association	65	November 4, 1987
Ottow, Anne	48	June 3, 1987
Parry, John M.P.	55	September 17, 1987
Public Interest Advocacy Centre	68	November 18, 1987
Quebec Association for Adult Learning Inc.	62	October 21, 1987
Quebec Farmers' Association	62	October 21, 1987
Radio and Television News Directors Association of Canada	64	November 3, 1987
Radio des Montagnes	48	June 3, 1987
Radio Péninsule Inc.	48	June 3, 1987
Radio Saguenay Ltée	57	October 8, 1987
Regional Academy of Dramatic Science	50	June 18, 1987
Regroupement des organismes communautaires de communication du Québec	58 & 67	October 9 & Nove

ORGANIZATIONS AND/OR INDIVIDUALS	ISSUE	DATE
Reliance Distributors of British Columbia Limited	50	June 18, 1987
Réseau de télévision TVA Inc.	62	October 21, 1987
Réseau Pathonic	61	October 20, 1987
Rogers Broadcasting	66	November 5, 1987
Rogers Cablesystems Incorporated (Halifax)	47	June 2, 1987
Rogers Cablesystems Incorporated (Toronto)	65	November 4, 1987
Saskatchewan Motion Picture Industry Association	44	May 27, 1987
Saskatoon Association of the Deaf	44	May 27, 1987
Saskatoon Telecable Limited	44	May 27, 1987
Satellite Supply	53	September 15, 1987
Satellite Television in Rural Areas	43	May 26, 1987
Sauvageau, Florian	58	October 9, 1987
Seneca Communications	63	October 22, 1987
Smith, Susan	54	September 16, 1987
Société de communications du Saguenay—Lac-Saint-Jean	57	October 8, 1987
Société de radio-télévision du Québec (Radio-Québec)	62	October 21, 1987
Société des Acadiens du Nouveau-Brunswick	48	June 3, 1987
Société franco-manitobaine	45	May 28, 1987
Société nationale des Acadiens	48	June 3, 1987
St. John's Association of the Deaf	46	June 1, 1987
Sun Country Cablevision Limited	50	June 18, 1987
Télé-Métropole Inc.	63	October 22, 1987
Téléfilm Canada	61 & 67	October 20 & Nove
Telesat	69	November 24, 1987
Television Bureau of Canada	66	November 5, 1987
Télévision ethnique du Québec	57	October 8, 1987
Télévision Quatre-Saisons	62	October 21, 1987

ORGANIZATIONS AND/OR INDIVIDUALS	ISSUE	DATE
Thunder Bay Chamber of Commerce	55	September 17, 1987
Thunder Bay Electronics Limited	55	September 17, 1987
Thunder Bay Friendship Centre	55	September 17, 1987
Thunder Bay Symphony Orchestra	55	September 17, 1987
Township of Atikokan	55	September 17, 1987
Tsang, Tom	50	June 18, 1987
Union des artistes	61	October 20, 1987
University College of Cape Breton	47	June 2, 1987
University of Regina	44	May 27, 1987
University of Western Ontario	54	September 16, 1987
University of Windsor	53	September 15, 1987
Vancouver Cooperative Radio	50	June 18, 1987
Walks, Brian	50	June 18, 1987
Wawatay Native Communications Society	55	September 17, 1987
West Coast Media Society	50	June 18, 1987
Western International Communications Limited	51	June 19, 1987
Westman Cable TV	45	May 28, 1987
Winnipeg Community Centre of the Deaf Incorporated	45	May 28, 1987
Winnipeg Film Group	45	May 28, 1987
WTVS (PBS Detroit)	53	September 15, 1987

APPENDIX III

INDIVIDUALS AND ORGANIZATIONS WHO SUBMITTED BRIEFS

TO THE COMMITTEE, BUT WHO DID NOT APPEAR AS WITNESSES

Alliance Québec

Association des programmateurs de la télédistribution du Québec

Atikokan Centennial Museum and Historical Park

Atlantic Traditional Music Conference

Canadian Broadcasting Corporation - Blacks Against Discrimination (BAD)

Canadian Independent Film Caucus

Conférence national des conseils régionaux des communications

Conseil de la vie française en amérique

Conseil populaire des communications de l'est du Québec

Court, Clive

Faerman, N.

Fédération nationale des communications

Government of New Brunswick

Government of Yukon

Kollias, Tania

Morgan, James E.

Multifax

W. Murray Communications

Radio Jazz

Simms, Len M.H.A. (Minister of Forest Resources and Land, Government of Newfoundland and Labrador)

Simon Fraser University

TVOntario

APPENDIX IV

SUMMARY OF RECOMMENDATIONS—REPORT ON THE 1985-86 ANNUAL REPORT OF THE CANADIAN BROADCASTING CORPORATION

Recommendation 1

We recommend that on a selective basis, legislative provisions related to financial management and control, similar to those now applied to other Crown corporations under the *Financial Administration Act*, be made applicable to the Canadian Broadcasting Corporation through amendments to the *Broadcasting Act*.

At this time, particular attention should be given to the following:

— Clarifying the role and responsibilities of the CBC's Board of Directors;

— Establishing as a legislative requirement. An Audit Committee of the Board and clarifying its responsibilities;

— Requiring that internal audits be conducted, overseen by the Audit Committee of the Board, to ensure that financial and management control, information systems and management practices are effective, economical and efficient;

— Clarifying the role and independence of the Internal Auditor of the CBC in order to ensure that on an effective comprehensive basis a second opinion on management issues is generated within the Corporation and that the Internal Auditor's reporting relationship with the President and the Audit Committee are clearly established;

— Expanding on the rights and responsibilities of the Auditor General as auditor of the Corporation's books, including a legislative provision for a comprehensive audit at intervals of not more than five years.

The CBC should remain exempt from the power of direction provisions which are applicable to other Crown corporations under the *Financial Administration Act*, and from any other provisions which would compromise the "arm's-length" relationship of the CBC with the government.

Recommendation 2

We recommend that the broadcasting act be amended to provide for a Chairman of the Board, who shall be appointed by the Governor-in Council on the recommendation of the Minister after consultation with the members of the CBC Board of Directors; and a President, who shall be appointed by and responsible to the Board of Directors. The Chairman shall be responsible primarily for the Corporation's policies, while the President shall be responsible for policy implementation.

APPENDIX V

SUMMARY OF RECOMMENDATIONS—INTERIM REPORT ON THE RECOMMENDATIONS OF THE TASK FORCE ON BROADCASTING POLICY: SPECIALTY SERVICES AND SOME PROPOSED LEGISLATIVE AMENDMENTS

Recommendation 1

The hybrid status of cable television should continue to be reflected in broadcasting law and regulatory policy, with cable companies recognized as an integral part of the Canadian broadcasting system and expected to contribute to achieving the goals of broadcasting policy as set out in the *Act*.

Recommendation 2

i) The Minister of Communications should take the lead in convening a meeting of the principal interested parties, including the provincial governments and program suppliers, both public and private, to consider the establishment of new not-for-profit Canadian satellite-to-cable services in French and English. In developing these proposed services the programming emphasis should be on providing a national showcase for productions from all regions of Canada, providing high quality Canadian children's and youth programs and offering other categories of Canadian programming, such as performing arts productions, which are not well provided for through existing television services. While the services should be predominently Canadian, they should also carry non-Canadian programming not readily available from other broadcasters. Subject to the development of specific proposals for these new services which could pursue these objectives effectively, public policy related to the development of specialty programming services should give priority to their implementation and carriage in Canadian cable systems.

ii) All Committee members agree that ideally these services should be provided on a non-commercial basis—not just because this is consistent with the nature of the proposed services, but because the Canadian television advertising market is highly fragmented. However, some members believe that in order for the services to provide as much high quality Canadian programming as possible, the option of a least accepting sponsorship revenue on a limited basis should not be foreclosed. Certainly the programs offered should not be interrupted at all by messages from sponsors.

Recommendation 3

If the CRTC does not have before it when applications are filed, proposals which adequately respond to the needs identified above and are carefully developed, based on wide consultation across Canada, then the Commission should ensure that the decisions it makes leave open the option of establishing these services later, ensuring that there still will be adequate channel capacity and scope for any appropriate charges.

Recommendation 4

The CRTC should not require the carriage of these services as part of basic cable service in every cable system in Canada, since this approach would have an undesirable impact on cable systems with a limited number of channels. Instead the Commission's policy should link the carriage of these services to the carriage of other licensed Canadian specialty services with a view to ensuring that they reach enough households to have the resources necessary to perform their programming function.

Recommendation 5

The CRTC should consider the carriage of other Canadian specialty services on basic cable on a case by case basis, taking into account the impact of such decisions on licensed pay television and conventional broadcasting services, but should not refuse in principle to permit such carriage.

Recommendation 6

Any Canadian specialized service licensed for carriage on basic service should meet the same Canadian content requirement as applies to conventional broadcasters.

Recommendation 7

Any licensed Canadian specialty services carried on a discretionary tier should receive priority of carriage within any discretionary tier of services, through a continuation of existing or amended packaging or linkage rules. Such rules are necessary and appropriate in view of the conditions of licence such services must comply with concerning the financing and exhibition of Canadian programs.

Recommendation 8

Unless the Commission can satisfy the concerns of existing and potential licensees that there will be fair and equitable treatment, the Commission should not permit cable ownership of licensed pay or specialty services.

Recommendation 9

The carriage of non-Canadian specialty services which would compete directly with licensed Canadian services should continue to be prohibited, since it is not compatible with the existence of Canadian specialty services which can contribute to achieving the goals of broadcasting policy.

Recommendation 10

The Governor-in-Council should be empowered to issue binding directions to the CRTC expressly restricted to broad policy matters in furtherance of the objectives of the broadcasting act. The directions should expressly refer to the specific objectives in the act which they seek to further.

Recommendation 11

The CRTC should be entitled to request that the Governor-in-Council issue a direction on a specific matter.

Recommendation 12

Before coming into effect, proposed directions should be tabled in the House of Commons and referred to an appropriate committee of the House for consideration. The committee should consult with interested parties, including the CRTC, and should be required to report on the proposed direction within forty sitting days from the date on which the reference to the Committee is made.

Recommendation 13

Directions should not have a retroactive effect and should not be issued in respect of a particular licence.

Recommendation 14

The present power of the Governor-in-Council to set aside decisions or refer them back to the CRTC should be eliminated, and a limited power of review should be substituted for it.

Recommendation 15

The power of review should be limited to the following cases only:

(i) where the Governor-in-Council has determined that the CRTC, in making its decision, has misinterpreted or ignored a direction; or

(ii) where the Governor-in-Council has determined that the effect of a CRTC decision is of overriding national importance with respect to the interpretation of the objectives of the act.

Recommendation 16

Notice of the review should be given to all interested parties, and parties should have a reasonable opportunity to present their case to Cabinet in writing.

Recommendation 17

Where a determination is made to set aside a decision or to refer it back to the CRTC, reasons should be given.

Recommendation 18

Section 9(2) of the *Radio Act* should be amended to require that authorization be obtained for the reception and use of radiocommunication, except where transmissions are by a broadcasting undertaking and are intended primarily for the direct reception by the general public without further authorization or without the payment of a charge therefore.

Recommendation 19

The legislation should incorporate the principles of section 705 (a) of the U.S. *Communications Act*: that there be a distinction between persons who breach the section for purposes of direct or indirect commercial advantage or private financial gain, who would be subject to serious penal sanctions and civil remedies, and others, who would be subject to lesser penalties.

Recommendation 20

The legislation should permit aggrieved persons to enforce the section through private legal action, including a cause of action in damages and a claim of relief by injunction against anyone taking a service without authorization.

Recommendation 21

The legislation should make it clear that the term "authorization" means an authorization to receive and utilize a radiocommunication at the location and for the purpose for which it was granted.

APPENDIX VI

SUMMARY OF RECOMMENDATIONS—SIXTH REPORT
RECOMMENDATIONS FOR A NEW BROADCASTING ACT

Assumptions

Recommendation 1

The broadcasting act should continue to state the fundamental principles and objectives upon which Canadian broadcasting policy is based. This policy statement should be the basis for decisions by the government and its cultural agencies, particularly the CBC, and for all decisions by the broadcasting regulatory authority respecting the undertakings that make up the broadcasting system.

Recommendation 2

The broadcasting act should continue to state that broadcasting undertakings in Canada make use of radio frequencies that are public property and should make it clear that, as a result, all persons licensed to operate broadcasting undertakings are responsible to the Canadian public pursuant to the broadcasting policy objectives established in the act.

Recommendation 3

The act should provide for the Canadian broadcasting system, comprising public, private and community broadcasting elements, to be regulated by a single regulatory agency, with each broadcasting undertaking contributing in an appropriate and significant way to the achievement of the objectives established for the system.

Recommendation 4

The act should incorporate a definition of community broadcasting and identify appropriate objectives and principles for its operation.

Recommendation 5

The act should state that all broadcasting undertakings must be at least 80 percent owned and effectively controlled by Canadians and that no single foreign shareholder may own more than 10 percent of the shares in any broadcasting undertaking in Canada.

Recommendation 6

The act should continue to recognize the right of persons to receive broadcasting programs and services, subject only to generally applicable statutes and regulations. However, the new legislation should also make it clear that, in the case of broadcasting services such as cable television or discretionary services for which a charge is made, this right is conditional on payment of the appropriate charge.

Recommendation 7

The act should state that broadcasting undertakings are responsible for the programs they broadcast but should provide an exemption from such responsibility for cable, satellite or any other distribution undertaking where that undertaking has no decision-making control over the content of the programming being redistributed and no contractual relationship with the originator of the programming service.

Principal Legislative Definitions

Recommendation 8

The Committee endorses the Task Force recommendations:

(a) That the act should cover all undertakings involved in broadcasting in the widest sense, this is, those that decide what programs to carry, as well as those that are involved in program dissemination to the public and thus in determining program accessibility to Canadians; and

(b) That the act should broaden the definition of broadcasting and related concepts to cover all types of program reception and distribution whether by Hertzian waves or through any other technology.

Recommendation 9

The term "broadcasting" should be defined so as to extend to any radiocommunication in which the transmissions are intended for reception by the public, including not only conventional radio and television stations but also satellite operations, where the signals are intended to be received only by cable television systems or other distribution undertakings that redistribute such signals to their subscribers.

Recommendation 10

The term "broadcasting" should be defined so as to extend to pay television, specialty and other program services intended for reception by the public, where the signals are scrambled and the service is intended to be received only by members of the public paying for such services.

Recommendation 11

The act should state that any person who transmits or distributes by means of telecommunication, other than solely as a telecommunications common carrier, any programming received by radiocommunication, should be considered to be carrying on a broadcasting undertaking.

Recommendation 12

A person should be considered to be carrying on a broadcasting undertaking under the act regardless of whether the undertaking is carried on for consideration or profit.

Recommendation 13

The power of the CRTC to exempt classes of broadcasting undertakings from the requirement that a licence be obtained should be expanded to include broadcasting transmitting undertakings as well as broadcasting receiving undertakings. However, the power to exempt should be exercisable only where the Commission finds that the exemption will have no significant adverse effect on the achievement of the policy objectives of the act.

Recommendation 14

The power to exempt undertakings from the requirement to obtain a licence should be subject to a right to impose terms and conditions, and regulations applicable to licensees should also be able to be applied to exempted persons. This will permit the CRTC, for example, when exempting MATV systems, to require such systems to meet the same obligations or requirements related to the carriage of services or any other matters as would apply to cable television systems or other comparable licensed undertakings.

Recommendation 15

The term "distribution undertaking" should be defined in the new legislation to mean a broadcasting undertaking that provides a service consisting in whole or in part of the distribution to the public of programming services originated by one or more broadcasters or network operators.

Recommendation 16

The act should define the term "network operation" so as to apply not only to conventional radio and television networks (where there is a delegation of program responsibility from the affiliate to the network), but also to satellite-to-cable networks or other operations where the supplier of a program service gives a right to two or more cable television systems or other distributors to market or exhibit the program service to its subscribers or customers.

Recommendation 17

All network operations that deliver a program service on a contracted basis to members of the Canadian public, whether directly or through distribution undertakings or other intermediaries, should require a licence from the CRTC.

Recommendation 18

The terms "program" and "programming" should be defined broadly in the act so as to cover all forms of audio and video content, including entertainment, information and advertising, disseminated to the public over broadcasting undertakings.

Recommendation 19

The broadcasting act should be amended as set out in Section 2(2) of the *Radio Act* so that the act applies to Her Majesty in right of Canada and of each province.

Objectives for the Canadian Broadcasting System

Recommendation 20

The act should continue to state that the Canadian broadcasting system should safeguard, enrich and strengthen the cultural, political, social and economic fabric of Canada.

Recommendation 21

The act should provide that the Canadian broadcasting system should serve the needs and interests of both sexes.

Recommendation 22

The Canadian broadcasting system should play an active role in stimulating a Canadian consciousness and should serve the special needs of each geographic region and both official language groups. By contributing actively to the exchange of information and expression among the regions, and between French and English-speaking Canadians, the system should acquaint all Canadians with the traditions, values, practices and aspirations of each region of Canada.

Recommendation 23

The Canadian broadcasting system should encourage the development of Canadian expression, providing a wide range of programming that reflects Canadian attitudes, opinions, ideas, values and artistic creativity, displaying Canadian talent in entertainment programming, and offering information and analysis concerning Canada and other countries from a Canadian point of view.

Recommendation 24

The programming carried by the system should provide a balanced representation of Canadian society, reflecting its multicultural and bilingual realities, its aboriginal peoples and the composition of its population with respect to sex, age, race, national or ethnic origin, colour, religion, and mental or physical handicaps.

Recommendation 25

The Canadian broadcasting system should offer a range of programming that is varied and comprehensive, providing a balance of information, enlightenment and entertainment for people of different ages, interests and tastes.

Recommendation 26

The act should reaffirm that all Canadians are entitled to Canadian broadcasting services in French and in English, with this right being implemented if necessary by means of concerted action by the public sector.

Recommendation 27

The broadcasting act should include the right of aboriginal peoples to broadcasting services in representative native languages, where numbers warrant and as public funds become available.

Recommendation 28

The broadcasting act should not include a specific right of access for all Canadians to the broadcasting system, as access is provided for adequately and realistically through other existing and proposed provisions in the legislation.

Recommendation 29

The act should stipulate that, except as provided for in Recommendation 30, the programming provided by each broadcaster and network operator should be predominantly Canadian, and each broadcaster and network operator should use predominantly Canadian creative and other resources.

Recommendation 30

The act should provide that the Commission may enact regulations exempting classes of broadcasters and network operators from the policy expressed in Recommendation 29, but requiring such broadcasters and network operators to use Canadian creative and other resources commensurate with their abilities, where

(a) the programming service is of specialized interest to only a limited segment of the public;

(b) the programming service is transmitted only to persons in remote areas in order to provide service commensurate with that available in urban areas; or

(c) the programming service is distributed only on a discretionary basis to subscribers in return for payment additional to payments made in respect of the provision of basic service by a broadcasting distribution under- taking.

Recommendation 31

The broadcasting act should include a provision that the programming of each broadcaster, network operator, and community channel operator should provide a reasonable and balanced opportunity for the expression of differing views on matters of public concern.

Recommendation 32

The broadcasting act continue to state that the programming provided by each broadcaster and on each community channel should be of high standard.

Recommendation 33

The new act should specifically bind the CRTC to ensure that within five years of the passage of new broadcasting legislation at least fifty percent of national television programming on conventional networks such as CBC, CTV, and TVA will be available with closed captioning or other means whereby the programs can be understood by the hearing impaired; and that other television broadcasters provide a significant and reasonable proportion of their programming with closed captions or comparable means to provide access to the hearing impaired.

Legislative Provisions Related to the CBC

Recommendation 34

The act should require that the CBC cover the whole range of Canadian programming in fair proportion, providing a balance of Canadian programming of information, enlightenment and entertainment for people of differing ages, interests and tastes, while offering Canadians the best of foreign radio and television programming.

Recommendation 35

The service provided to Canadians by the Corporation should be predominently Canadian in content and character, in English and French, serving the special needs of the geographic regions, and contributing actively to the flow and exchange of information and expression among Canadians living in all geographic regions.

Recommendation 36

The requirement that the CBC contribute to national unity should not be included in a future act but should be replaced by a more socially oriented provision, for example, that the CBC contribute to the development of national consciousness.

Recommendation 37

The broadcasting act should provide for the CBC to offer service in aboriginal languages considered to be representative, where numbers warrant and to the extent public funds permit.

Recommendation 38

The three main non-mandated services—the Parliamentary Television Network, Radio Canada International and the Northern Service—should be written into the broadcasting legislation, either within the mandate of the CBC or in some other appropriate context, in order to confer official recognition and continuity of service.

Recommendation 39

The cost of providing the Parliamentary Television Network should be borne by the Speaker of the House of Commons, with the Speaker responsible for determining the scope and nature of that service. The CBC should be compensated in full for continued use of its technical and human resources.

Recommendation 40

The funds for the operation of the service of Radio Canada International should be voted separately within the funding of the CBC. The CBC should continue to operate the service with full editorial independence. The Department of External Affairs should continue to provide advice concerning the countries to be served by RCI and the languages in which RCI should broadcast.

Recommendation 41

The act should continue to state that the services of the CBC should be extended to all parts of Canada, as public funds become available.

Recommendation 42

The CBC licence renewal process should be preceded by a statement from the government on the extent of funding it intends to provide over the pending CBC licence period. It should also be preceded by the CBC's plans for the licence period, including its promise of performance to the Commission. On this basis, as well as the public comment provided through a full licence renewal hearing and its overall view of the content of the Canadian broadcasting system as a whole, the CRTC would then attach to the CBC's licence such conditions as it deemed appropriate.

Recommendation 43

The public subsidy granted CBC should be calculated and announced publicly to cover the same period as the CBC's station and network licences. In return the CBC should be expected to manage its resource base over this financing period without requesting any adjustments for either earned revenue shortfalls or fluctuations in the cost of doing business.

Recommendation 44

In selecting the members of the CBC's Board of Directors, the government's decisions should reflect the representation in the population of men and women, both official language groups, and minority groups, as well as the regions of Canada.

Recommendation 45

Action should not be taken to create an office of CBC Ombudsman. Instead, the CBC should strengthen its existing process for handling complaints, including both the recognition and reporting of complaints within CBC's programming and the administrative process for replying to and dealing with complaints.

Recommendation 46

The act should continue to state that where any conflict arises between the objectives of the national broadcasting service and the interests of the private element of the Canadian broadcasting system, it shall be resolved in the public interest, but paramount consideration shall be given to the objectives of the national broadcasting services.

Provincial Broadcasting Services

Recommendation 47

The broadcasting act should make provision for licensing by the CRTC of educational broadcasting services established by provincial governments, and such services should be regarded as an integral part of the Canadian broadcasting system.

Cable Television and Other Broadcasting Distribution Undertakings

Recommendation 48

As noted in Recommendation 15, broadcasting undertakings that provide a service consisting in whole or in part of the distribution to the public of programming services originated by one or more broadcasters or network operators should be defined separately in the act as "distribution undertakings".

Recommendation 49

Distribution undertakings should be recognized as an integral part of the Canadian broadcasting system and should be subject to regulatory requirements based on their unique characteristics.

Recommendation 50

Distribution undertakings should continue to be permitted in the new act to operate and take responsibility for local community access channels.

Recommendation 51

The act should provide that no distribution undertaking may have an ownership interest in, or be in common ownership with, a pay television, specialty or any other network programming service distributed on such undertaking on the basis of a contractual relationship between the licensed network and the distribution undertaking, or where the consent of the network or the distribution undertaking is required for carriage.

Recommendation 52

The CRTC should be given the power to arbitrate the terms and conditions contained in affiliation agreements between distribution undertakings and network operators.

Recommendation 53

"Non-programming" services should be defined so as not to overlap with the definition of "programming" proposed in Recommendation 18.

Recommendation 54

Distribution undertakings should be permitted to distribute or originate non-programming services, subject to carriage priority to programming services and provided appropriate cost separations are maintained.

Recommendation 55

Equitable non-discriminatory access should be provided by distribution undertakings to third parties wishing to offer non-programming services.

Recommendation 56

Distribution undertakings should not be allowed to compete directly for advertising revenue with licensed broadcasters or network operators. Any involvement by distribution undertakings should continue to be limited and specialized in its nature, with the resulting revenues used to support their community channel.

Recommendation 57

The Commission should continue to have the power to establish conditions respecting the carriage of programming services by distribution undertakings.

Recommendation 58

The act should be drafted so as to define the essential role of distribution undertakings as that of distributing Canadian radio and television services in French and in English, both public and private, with first priority given to public-sector Canadian services, followed by private Canadian services. With the exception of the "three-plus-one" services already carried, the act should make provision for the carriage of foreign radio and television services only when the programming they provide is complementary to that available from licensed Canadian broadcasters and network operators. The act should also provide for priority to be given to the carriage of services in French in distribution undertakings that serve primarily francophone subscribers.

Recommendation 59

The Commission should be given the explicit power to determine the terms and conditions under which distribution undertakings provide service to the public.

Recommendation 60

Provision should be made for the Commission to ensure that the fees charged by distribution undertakings to the public are equitable, having regard to the responsibilities of such undertakings as part of the Canadian broadcasting system.

Recommendation 61

The act should continue to provide a basis for the Commission to require that distribution undertakings file both balance sheet and operating data on a system-by-system basis and carry out full cost separations as a basis for the fair allocation of costs to basic, discretionary and other services.

Recommendation 62

The Commission should be permitted to deregulate the provision of non-programming services by distribution undertakings, subject to the terms of Recommendations 54 and 55 above.

Recommendation 63

The Commission should be permitted to deregulate the rates charged by distribution undertakings to the public for discretionary programming services, subject to the terms of Recommendations 51 and 52 above.

Regulation of Canadian Broadcasting System: The CRTC

Recommendation 64

As well as providing for the CRTC to regulate and supervise all aspects of the Canadian broadcasting system with a view to implementing all the relevant provisions of the act, the new act should explicitly mandate the Commission to ensure, through its licensing decisions, that the structure of the system is consistent with the achievement of the goals established in the act.

Recommendation 65

The act should provide for the CRTC to take into consideration the distinctive characters of French and English broadcasting when implementing broadcasting policy.

Recommendation 66

In selecting the members of the Canadian Radio-television and Telecommunications Commission, the government's decisions should reflect the representation in the population of men and women, both official language groups, and the regions of Canada, as well as groups within the population.

Recommendation 67

The office of part-time Commissioner should be eliminated and the number of Commissioners increased to 12.

Recommendation 68

At least one full-time Commissioner should be situated in each of the selected regional offices and should supervise the Commission's work related to licensees in the region and be involved in decisions related to such licensees.

Recommendation 69

The term of office for a Commissioner should continue to be seven years.

Recommendation 70

The Committee endorses the following recommendations:

The broadcasting act should keep the CRTC's extensive powers to make regulations on all matters within its jurisdiction.

Regulatory instruments should be drafted clearly and simply in English and French.

Regulation should be reviewed regularly to ensure that the burdens do not outweigh the potential benefits, keeping in mind the broadcasting principles enacted by Parliament.

Recommendation 71

The broadcasting act should continue to provide for broad CRTC powers to set conditions of licence on each licensee, including conditions that oblige the licensee to spend specified amounts for specified purposes.

Recommendation 72

The broadcasting act should include provisions designed to increase significantly the number of women and minority groups at all levels within broadcasting undertakings, until such time as equitable representation is achieved. These provisions should be based on the *Employment Equity Act*. In addition, they should apply to all licensees, though taking into consideration the nature of their operations, and involve consideration of employment practices affecting both salaried and contract workers. The CRTC should be empowered to enforce these provisions, and in particular to implement employment equity through conditions of licence.

Recommendation 73

In regulating the broadcasting system in a way that ensures that all components contribute to meeting the objectives of the broadcasting act, both regulations and conditions of licence should be used. However, the CRTC should continue to make greater use of conditions of licence appropriate to the circumstances of individual licensees.

Recommendation 74

The majority of the Committee recommends that self-regulation be used when doing so is consistent with the public interest. Where possible the Commission should identify those areas where it is inclined to set conditions and the guidelines it intends to use in imposing conditions.

Recommendation 75

Failure to comply with a condition of licence should be included as an offence under the broadcasting act. The offender should be liable to a fine set at a level that would make compliance more economic than non-compliance.

The CRTC should make more frequent use of its power to award or renew licences for short terms. Where a licensee has a history of non-compliance with regulations or conditions of licence, the Commission should be required to use its power to call for new applicants at the time of licence renewal.

Recommendation 76

The broadcasting act should confer on the CRTC, as an express statutory power, the authority to develop and issue policy statements.

Recommendation 77

The CRTC should authorize cross-examination by parties with opposing interests upon the request of an intervener, or of an applicant who wishes to cross-examine another applicant, where contradictory statements of fact have been made.

Recommendation 78

The CRTC should respect the rights of all parties to all useful information on applicants and licensees and should drop existing confidentiality practices that hinder the evaluation of applications at public hearings and are not necessary as a protection of legitimately private information that is not directly relevant to the assessment of the application.

Recommendation 79

Decisions on applications should be made by the Commissioners who hear the applications. As a result, the broadcasting act should eliminate those provisions requiring that decisions concerning the issuance, amendment and renewal of licences be made by all full-time members only, in consultation with part-time (non-voting) members.

Recommendation 80

The act should not make provision for funding through the CRTC of intervenors who participate in Commission hearings.

Recommendation 81

The Committee does not support the Task Force recommendation with respect to the creation of the Office of Public Advocate. The Committee does, however, support the functions that the office was designed to serve.

Recommendation 82

The CRTC should develop an effective centralized procedure for handling complaints. Records of complaints and actions taken should be kept and included in the Commission's Annual Report to Parliament.

Recommendation 83

The Department of Communications and the CRTC should support the development of research in communications-related disciplines on all aspects of Canadian broadcasting, especially regulatory policies and methods.

Recommendation 84

In order to be able to carry out independent assessments of the broadcasting industry, the CRTC should reactivate its research department and consult specialists in all appropriate disciplines to establish and maintain a meaningful and up-to-date database on the broadcasting industry.

Recommendation 85

The government and the CRTC should work together to establish a readily accessible database on regulatory and self-regulatory processes and decisions.

Recommendation 86

The new broadcasting act should contain provisions requiring the Commission's Annual Report to:

(a) identify the mandate and objectives of the Commission;

(b) set out the Commission's interpretation of the mandate and objectives;

(c) describe the plans the Commission has to achieve its objectives; and

(d) set out the Commission's major activities during the year and explain how they are relevant to the Commission's plans and how they help achieve the objectives.

The Committee requests that the Government provide a comprehensive response to this Report in accordance with provisions of Standing Order 99(2).

A copy of the relevant Minutes of Proceedings and Evidence of the Standing Committee on Communications and Culture (*Issues Nos. 43, 44, 45, 46, 47, 48, 50, 51, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 72, 74, 76 and No. 79 which includes this report*) is tabled.

Respectfully submitted,

JOHN GORMLEY,
Chairman.

MINUTES OF PROCEEDINGS

TUESDAY, MAY 17, 1988
(155)

The Standing Committee on Communications and Culture met *in camera*, in room 308, West Block, at 9:30 o'clock a.m. this day, the Chairman, John Gormley, presiding.

Members of the Committee present: Jim Caldwell, Sheila Finestone, John Gormley.

Acting Member present: Lynn McDonald for Ian Waddell.

In attendance: René Lemieux consultant to the Committee. *From the Library of Parliament*: James Robertson, Research Officer.

The Committee resumed consideration of the Report of the Task Force on Broadcasting Policy referred to the Committee on Thursday, January 29, 1987. (*See Minutes of Proceedings and Evidence for Tuesday, February 10, 1987, Issue No. 19*).

The Committee resumed consideration of a draft Report to the House on broadcasting policy.

At 11:00 o'clock a.m., the Committee adjourned to the call of the Chair.

THURSDAY, MAY 19, 1988
(156)

The Standing Committee on Communications and Culture met *in camera*, in room 307, West Block, at 9:25 o'clock a.m. this day, the Chairman, John Gormley, presiding.

Members of the Committee present: Jean-Pierre Blackburn, Jim Caldwell, Sheila Finestone and John Gormley.

Acting Member present: Lynn McDonald for Ian Waddell.

In attendance: René Lemieux and Tim Creery, consultants to the Committee. *From the Library of Parliament*: James Robertson, Research Officer. *From Sheila Finestone's office*: Nanci-Jean Waugh.

The Committee resumed consideration of the Report of the Task Force on Broadcasting Policy referred to the Committee on Thursday, January 29, 1987. (*See Minutes of Proceedings and Evidence for Tuesday, February 10, 1987, Issue No. 19*).

The Committee resumed consideration of a draft Report to the House on broadcasting policy.

At 10:55 o'clock a.m, the sitting was suspended.

At 11:16 o'clock a.m., the sitting resumed.

The Committee resumed consideration of the Report of the Task Force on Broadcasting Policy referred to the Committee on Thursday, January 29, 1987. (*See Minutes of Proceedings and Evidence for Tuesday, February 10, 1987, Issue No. 19*).

The Committee resumed consideration of a draft Report to the House on broadcasting policy.

At 11:30 o'clock a.m, the sitting was suspended.

At 12:11 o'clock a.m., the sitting resumed.

The Committee resumed consideration of the Report of the Task Force on Broadcasting Policy referred to the Committee on Thursday, January 29, 1987. (*See Minutes of Proceedings and Evidence for Tuesday, February 10, 1987, Issue No. 19*).

The Committee resumed consideration of a draft Report to the House on broadcasting policy.

At 2:00 o'clock p.m., the Committee adjourned until 3:30 o'clock p.m. this afternoon.

AFTERNOON SITTING
(157)

The Standing Committee on Communications and Culture met *in camera*, in room 208, West Block, at 3:30 o'clock p.m. this day, the Chairman, John Gormley, presiding.

Members of the Committee present: Jean-Pierre Blackburn, Jim Caldwell, Sheila Finestone.

Acting Members present: Lynn McDonald for Ian Waddell and Harry Brightwell for John Gormley.

In attendance: René Lemieux and Tim Creery, consultants to the Committee. *From the Library of Parliament*: James Robertson and Millie Morton, Research Officers. *From Sheila Finestone's office*: Nanci-Jean Waugh.

The Committee resumed consideration of the Report of the Task Force on Broadcasting Policy referred to the Committee on Thursday, January 29, 1987. (*See Minutes of Proceedings and Evidence for Tuesday, February 10, 1987, Issue No. 19*).

The Committee resumed consideration of a draft Report to the House on broadcasting policy.

At 6:00 o'clock p.m., the Committee adjourned to the call of the Chair.

TUESDAY, MAY 24, 1988
(158)

The Standing Committee on Communications and Culture met *in camera*, in room 705, Promenade Building, at 10:17 o'clock a.m. this day, the Chairman, John Gormley, presiding.

Members of the Committee present: Jean-Pierre Blackburn, Jim Caldwell, Sheila Finestone, John Gormley.

Acting Member present: Lynn McDonald for Ian Waddell.

In attendance: René Lemieux and Tim Creery, consultants to the Committee. *From the Library of Parliament*: James Robertson and Millie Morton, Research Officers. *From Sheila Finestone's office*: Nanci-Jean Waugh.

The Committee resumed consideration of the Report of the Task Force on Broadcasting Policy referred to the Committee on Thursday, January 29, 1987. (*See Minutes of Proceedings and Evidence for Tuesday, February 10, 1987, Issue No. 19*).

The Committee resumed consideration of a draft Report to the House on broadcasting policy.

At 12:25 o'clock p.m., the Committee adjourned until 3:30 o'clock this afternoon.

AFTERNOON SITTING
(159)

The Standing Committee on Communications and Culture met *in camera*, in room 705, Promenade Building, at 3:25 o'clock p.m. this day, the Chairman, John Gormley, presiding.

Members of the Committee present: Jean-Pierre Blackburn, Jim Caldwell, Sheila Finestone, John Gormley.

Acting Member present: Lynn McDonald for Ian Waddell.

In attendance: Paul Audley, Director of Research. René Lemieux and Tim Creery, consultants to the Committee. *From the Library of Parliament*: James Robertson, Research Officer. *From Sheila Finestone's office*: Nanci-Jean Waugh.

The Committee resumed consideration of the Report of the Task Force on Broadcasting Policy referred to the Committee on Thursday, January 29, 1987. (*See Minutes of Proceedings and Evidence for Tuesday, February 10, 1987, Issue No. 19*).

The Committee resumed consideration of a draft Report to the House on broadcasting policy.

At 5:30 o'clock p.m., the Committee adjourned until 6:30 this evening.

EVENING SITTING
(160)

The Standing Committee on Communications and Culture met *in camera*, in room 705, Promenade Building, at 6:30 o'clock p.m. this day, the Chairman, John Gormley, presiding.

Members of the Committee present: Jean-Pierre Blackburn, Jim Caldwell, Sheila Finestone, John Gormley.

Acting Member present: Lynn McDonald for Ian Waddell.

In attendance: Paul Audley, Director of Research. René Lemieux and Tim Creery, consultants to the Committee. *From the Library of Parliament*: James Robertson, Research Officer. *From Sheila Finestone's office*: Nanci-Jean Waugh.

The Committee resumed consideration of the Report of the Task Force on Broadcasting Policy referred to the Committee on Thursday, January 29, 1987. (*See Minutes of Proceedings and Evidence for Tuesday, February 10, 1987, Issue No. 19*).

The Committee resumed consideration of a draft Report to the House on broadcasting policy.

By unanimous consent, it was agreed,—That the draft report, as amended, be adopted as the Committee's 15th Report to the House, subject to changes, as may be necessary, by the Chairman in consultation with Opposition and Government Members and that the Chairman be instructed to present the report to the House; and

That, the Committee print 1850 English copies and 700 French copies of its 15th Report to the House with a special cover; and

That the Committee approve the special cover of the 15th Report.

At 12:05 o'clock a.m., the Committee adjourned to the call of the Chair.

Normand A. Radford

Clerk of the Committee